SUPREME COURT OF THE UNITED STATES.

No. 322.

EDWARD W. BURBANK, PLAINTIFF IN ERROR,

vs.

EDMOND B. BIGELOW.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Petition	1	1
Citation to T. S. Burbank	6	2
Marshal's return on foregoing	7	3
Citation to E. W. Burbank	8	3
Marshal's return on foregoing	10	4
Affidavit of E. B. Bigelow	10	4
Interrogatories for plaintiff	11	4
Motion and order for commissions	15	6
Notice to E. W. Burbank	16	6
Marshal's return on foregoing	17	7
Notice to T. S. Burbank	17	7
Marshal's return on foregoing	18	7
Cross-interrogatories	19	7
Answer of E. W. Burbank	22	8
Exception of T. S. Burbank	23	9
Return to commission, marked O	24	9
Deposition of J. Hausman	26	10
Deposition of T. H. Mosher	31	13
Rule on G. W. Griffin & G. W. Forche	41	15
Marshal's return on foregoing rule	43	16
Motion and order for subpœna duces tecum	44	16
Affidavit and statement of E. B. Bigelow	44	16
Subpœna duces tecum on E. W. Burbank	44	18
Marshal's return on foregoing sub'p duces tecum	45	18
Subpœna duces tecum on T. S. Burbank	46	18
Marshal's return on subpœna duces tecum	47	19
Order fixing exception of T. S. Burbank	48	19
Notice of tral	48	19

	Original.	Print
Marshal's return on foregoing notice	49	20
Answer to rule	50	20
Additional answer to rule	52	21
Order rule absolute	53	21
Hearing and submission of exception	54	21
Judgment sustaining exception of T. S. Burbank and dismissing suit as to him	54	21
Motion and order for subpœna duces tecum	55	22
Subpœna duces tecum on E. W. Burbank	56	22
Marshal's return on same	57	22
Rule on E. B. Bigelow	58	23
Marshal's return on foregoing rule	59	23
Petition and order for delay	59	23
Order granting delay	61	24
Order rule absolute	61	24
Order cause continued	62	24
Motion and order for subpœna duces tecum	62	24
Subpœna duces tecum on E. W. Burbank	63	25
Marshal's return on foregoing	64	25
Affidavit of E. W. Burbank for commission	64	25
Motion and order for commission	66	26
Interrogatories by defendant	66	26
Interrogatories by defendant	68	26
Notice to E. B. Bigelow	69	27
Marshal's return on foregoing	70	27
Note of evidence	71	28
Answer of E. W. Burbank, marked O	72	28
Answer of T. S. Burbank, marked P	73	28
Hearing continuance and order fixing and transferring case to jury	74	29
Peremptory exception of E. W. Burbank	75	29
Hearing order overruling exception	76	30
Sworn statement of E. W. Burbank, marked Q	77	30
Note of evidence	78	30
Document R	79	31
Document T	81	32
Hearing and continuance	84	33
Note of evidence	85	33
Document V	85	34
Hearing and continuance	87	34
Opening and adjournment of court, &c	88	34
Note of evidence	88	35
Hearing and continuance	88	35
Note of evidence	89	35
Document X	90	35
Account sales, marked 1	90	36
Account sales, marked 2	91	37
Hearing and continuance	93	37
Note of evidence	93	38
Document marked 3	94	38
Document marked 4	94	38
Document marked 5	96	39

	Original.	Print.
Document marked 6	97	39
Document marked 7	99	40
Hearing and continuance	101	40
Note of evidence	101	40
Bill of exception of E. W. Burbank	102	41
Hearing and submission and verdict	104	42
Rule for new trial	106	42
Grounds	107	43
Marshal's return on foregoing rule	110	44
Hearing and submission of rule for new trial	111	44
Order refusing new trial	112	44
Notice of seizure	112	44
Petition for writ of error	113	45
Bond for writ of error	115	45
Rule to set aside appeal	117	46
Grounds	118	46
Marshal's return on foregoing rule	119	47
Motion and order for subpœna duces tecum	120	47
Subpœna duces tecum on Charles Ducros, deputy sheriff	121	48
Marshal's return on same	122	48
Note of evidence	123	48
Deposition of F. B. Vinot	134	49
Writ of attachment	125	49
Notice to E. B. Bigelow	127	50
Sheriff's return on same	128	50
Notice to Bullitt, U. S. marshal	129	51
Sheriff's return on same	130	51
Notice to C. Claiborne and sheriff's return	131	52
Instructions of plaintiff's counsel to sheriff	132	52
Petition to judge 3d district court	134	53
Amended and supplemental petition 3d district court	136	54
Order rule discharged	138	55
Extracts from book marked No. 8	140	55
Extracts from book marked No. 9	148	61
Extracts from book marked No. 10	179	103
Extracts from private memorandum book of E. B. Bigelow, marked U	181	108
Statement of evidence	182	109
Clerk's certificate to record	271	139
Writ of error	272	140
Citation in error	273	140
Marshal's return on citation in error	274	141

1 *Petition.—Filed December 18th, 1865.*

United States circuit court, sixth judicial circuit, eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOMAS S. BURBANK. } No. 3,686.

To the honorable the circuit court of the United States, sixth circuit and eastern district of Louisiana.

The petition of Edmond B. Bigelow, a citizen of the State of Wisconsin, respectfully shows:

That Edward W. Burbank, a resident and citizen of the State of Louisiana, is indebted unto your petitioner in the sum of $21,254 60 with interest at five per cent. per annum from judicial demand, for this, to wit:

That your petitioner was a partner of Thomas S. Burbank, a brother of E. W. Burbank, and did business in Montgomery, Alabama,
2 under the firm of Burbank & Bigelow, which firm was in the habit of buying cotton and shipping it to New Orleans to E. W. Burbank, and sometimes to New York, the proceeds subject to the order of E. W. Burbank.

Now your petitioner shows, that between the 15th and 30th June, 1865, his said firm shipped to E. W. Burbank 57 bales of cotton, to be sold for their account, which he received and shipped to of New York, and the 57 bales weighed each 500 pounds, making 28,500 lbs., and were of the value of 50 cts. per pound, and sold for $14,250, which were received by E. W. Burbank, and should have been credited to the firm of Burbank & Bigelow.

That the firm of Burbank & Bigelow, between the 15th and 30th June, 1865, shipped to Griffen, Porch & Co., of Mobile, 57 bales of cotton, weighing each 500 pounds, making 28,500 pounds, which was of the value of 50 cts. per pound, making $14,250 for which
3 the cotton was sold by Griffen, Porch & Co., and the proceeds paid over to E. W. Burbank.

That the firm of Burbank & Bigelow, between the 20th and 30th of June, 1865, shipped to Griffin, Porch & Co., of Mobile, 42 bales of cotton, weighing each 500 pounds, making 21,000 lbs., and were of the value of 50 cts. per pound, making $10,500, for which the cotton was sold, and Griffen, Porch & Co. paid the same to E. W. Burbank.

That the firm of Burbank & Bigelow, between the 15th June and 30th July, 1865, shipped to Griffen, Porch & Co., of Mobile, 9 bales of cotton, weighing each 500 lbs. making 4,500 lbs., of the value of 50 cts. per pound, making $2,250, for which the cotton was sold, and the proceeds paid to E. W. Burbank, and they shipped 2 bales of paper stock at the same time and in the same way, which were of the value of $100, and were sold for that amount, and the proceeds paid to E. W. Burbank.

That the firm of Burbank & Bigelow, between the 20th and 30th

of June, 1865, shipped to E. W. Burbank one bale of Osnaburgs,
4 measuring 818½ yds., of the value of 30 cts. yer yard, making $245 55, which were sold by E. W. Burbank for that amount. And they shipped to said E. W. Burbank 4 bales of Osnaburgs, measuring 2,069½ yards, of the value of 30 cts. per yard, making $620 85, which was sold by E. W. Burbank for that amount.

And they shipped to E. W. Burbank one bale of sheeting, 732 yards, of the value of 40 cts. per yard, making $292 80, which was sold by E. W. Burbank for that amount.

Recapitulation.

57 bales of 500 lbs., 28,500 lbs., at 50 cts	$14,250 00
57 bales of 500 lbs., 28,500 lbs., at 50 cts	14,250 00
42 bales of 500 lbs., 21,000 lbs., at 50 cts	10,500 00
9 bales of 500 lbs., 4,500 lbs., at 50 cts	2,250 00
2 bales paper stock	100 00
1 bale of Osnaburgs, 818½ yds., at 30 cts	245 55
4 bales of Osnaburgs, 2,609½ yds., at 30 cts	620 85
1 bale sheeting, 732 yds., at 40 cts.	292 80
	42,509 20

Your petitioner shows that his interest in the above ship-
5 ments is one-half, to wit, the sum of $21,254 60, and the other half belongs to his late partner, Thomas S. Burbank, a citizen of the State of Louisiana.

He further shows that his late partner, Thomas S. Burbank, and the said E. W. Burbank, who are brothers, have combined and confederated together to wrong, injure, and cheat your petitioner out of his interest in the aforesaid shipments, by pretending that these shipments were made for the account and benefit of E. W. Burbank; all of which is false as your petitioner will show.

Wherefore your petitioner prays that Thomas S. Burbank and Edward W. Burbank be cited to defend this suit, and for judgment against Edward W. Burbank for the aforesaid sum of ($21,254 60) twenty-one thousand two hundred and fifty-four dollars and 60 cents, with five per cent. per annum interest from judicial demand, and costs of suit.

And petitioner prays for general relief.

(Signed) GEO. L. BRIGHT,
Counsel for Pet'r

50 cts. int. rev stp. affixed and cancelled.

6 *Citation to Thos. S. Burbank.—Issued 18th Dec'r*, 1865.

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOMAS S. BURBANK. } No. 3,686.

You are hereby commanded to summon Thomas S. Burbank, a

citizen of the State of Louisiana, to comply with the demand of Edmond B. Bigelow, a citizen of the State of Wisconsin, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the circuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default,
7 which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held, and that you make due return hereof on the first Mondoy of January, 1865.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 18th day of December, A. D. one thousand eight hundred and sixty-five, and of the independence of the United States of America the ninetieth year.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return on foregoing citation.

Received December 19th, 1865, and on the same day, month, and year served a copy of the within citation and plaintiff's petition annexed thereto on Thos. S. Burbank, one of the defendants named in the above-entitled suit, by leaving the same at his domi-
8 cil, 252 Annunciation street, in this city, in the hands of a free white person over 18 years of age, who represented herself to be the wife of said T. S. Burbank, he being absent from the city at the time of said service.

Returned New Orleans, December 19, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Citation to Edw. W. Burbank.—Issued 18th December, 1865.

The president of the United States of America to the marshal of the eastern district of Louisiana, greeting:

EDMOND B. BIGELOW
vs. } No. 3,686.
EDMOND W. BURBANK and THOMAS S. BURBANK.

You are hereby commanded to summon Edward W. Bur-
9 bank, a citizen of the State of Louisiana, to comply with the demand of Edmond B. Bigelow, a citizen of the State of Wisconsin, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the clerk of the circuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held, and that you make due return hereof on the first Monday of January, 1865.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 18th day of December, A. D. one thousand eight hundred and sixty-five, and of the independence of the United States of America the ninetieth year.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

10 *Marshal's return on foregoing citation.*

Received December 18th, 1865, and on the same day, month, and year served a copy of the within citation and plaintiff's petition, accompanying the same on Edward W. Burbank, personally, at his store, No. 71 Tchoupitoulas street, in this city, said E. W. Burbank being one of the defendants named in the above-entitled suit.

New Orleans, December 18th, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Affidavit of Edmond B. Bigelow.—Filed Dec'r 18th, 1865.

Before U. S. circuit court, 6th circuit and eastern district of La.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

11 Edmond B. Bigelow, sworn, says that W. W. Bigelow, who resides in Albany, New York, Thomas H. Mosher, who resides in Montgomery, Ala., Charles Swift, who resides in Saginew, Michigan, and Charles H. May, who resides in Montgomery, Ala., and J. Housman and John Lindsay, who reside in Marshal, Dane county, Wisconsin, are material and competent witnesses for affiant.

(Signed) E. B. BIGELOW.

Sworn to and subscribed before me, Dec'r 18th, 1865.

(Signed) CHS. CLAIBORNE, *Clerk.*

Interrogatories for plaintiff.—Filed Dec'r 18th, 1865.

Before the United States circuit court, sixth circuit and eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

12 Interrogatories to be propounded to Wm. W. Bigelow, who resides in Albany, New York, Thomas H. Mosher, who resides in Montgomery, Ala., Charles Swift, who resides in Saginew, Michigan, and Charles H. May and J. Housman, who reside in Montgomery, Ala., and John Lindsay, who resides in Marshall, Dane

county, Wisconsin, witnesses for plaintiff, whose depositions are to be taken by virtue of commissions:

1. Are you acquainted with the parties to this suit? When, where, and how did you become acquainted with them? Who composed the firm of Burbank & Bigelow? Where did they do business? What kind of business were they engaged in? What business relation existed between them and Edward S. Burbank?

2. Did or did not Burbank & Bigelow make any shipments of cotton and merchandise to E. W. Burbank, of New Orleans, and Griffin, Porche & Co., of Mobile? If yea, describe them fully. State and describe each and every shipment, the number of bales, their weight, to whom shipped, by whom, and at what time, for whose
13 account; and then state fully how you acquired your knowledge, and every fact and circumstance that will tend to show that the cotton and merchandise was bought by the firm of Burbanks & Bigelow, and shipped for their account, and not for the account of Edward W. Burbank.

Did you ever write for the firm of Burbank & Bigelow any letters to Edward W. Burbank relative to the cotton and merchandise shipped by Burbank & Bigelow? If yea, at whose request did you write them? What were you requested to write? and what did you state in the letter?

Did Edward W. Burbank write any letters to the firm of Burbank & Bigelow? If nay, to whom was he in the habit of addressing his letters on business of the firm?

In any of the letters did he speak of the cotton and merchandise of Burbank & Bigelow? If yea, state what he said in the letters.

Did you ever have any conversation with Thomas S. Burbank and E. W. Burbank about the cotton and merchandise that had been shipped to E. W. Burbank & Griffen, Porche & Co.? If yea,
14 state fully the conversation.

3. What was the average weight of every bale of cotton and the value thereof in New Orleans, and in New York? What description of cotton was it?

4. This is an action instituted to recover from E. W. Burbank the one-half of $42,509 20, being the one-half of the following items:

57 bales of 500 lbs., 28,500 lbs., at 50 cts	$14,250 00
57 bales of 500 lbs., 28,500 lbs., at 50 cts	14,250 00
42 bales of 500 lbs., 21,000 lbs., at 50 cts	10,500 00
9 bales of 500 lbs., 4,500 lbs., at 50 cts	2,250 00
2 bales of paper stock	100 00
1 bale Osnaburg, 818½ yds., at 30 cts	245 55
4 bales Osnaburg, 2,609½ yds., at 30 cts	620 85
1 bale sheating, 732 yds., at 40 cts	292 80
	42,509 20

On the ground that Thomas S. Burbank & Edward W. Burbank have combined and confederated together to wrong, injure, and cheat the

plaintiff out of his interest in the aforesaid property and amount, pretending that the shipments were made for the account, pro-
15 fit, and benefit of E. W. Burbank, and not for the property of and for the account and benefit of Burbank & Bigelow. State all you know that will sustain the plaintiff's cause of action.

(Signed) GEO. L. BRIGHT,
Counsel for Petitioner.

Motion and order for commissions.—Extract from the minutes.

November term, 1865.

NEW ORLEANS, *Monday, December 18th*, 1865.

Court met pursuant to adjournment. Present, Hon. Edw. H. Durell, district judge.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, att'y for pl'ff, it is ordered that a commission issue directed to any judge or justice of the peace or commissioner for Louisiana, in the State of New York, to take the depositions of W. W. Bigelow; that another issue to any judge
16 or justice of the peace, or to J. H. Nettles, justice of the peace at Montgomery, Ala., or to any commissioner for Louisiana, in Ala., to take the depositions of Thos. H. Mosher, Ch. H. May, and J. Housman, and that another issue to any judge or justice of the peace or commissioner for Louisiana, in the State of Wisconsin, to take the depositions of John Lindsay, and that three months be allowed for the return of the commissions.

Notice to Edw'd W. Burbank, def't.—Issued Dec'r 18th, 1865.

U. S. circuit court, eastern district of Louisiana.

EDMOND W. BIGELOW
vs.
EDMOND B. BURBANK & THOMAS S. BURBANK. } No. 3,686.

To Edward W. Burbank:

Take notice that the plaintiff has this day filed interrogatories to certain witnesses named in the following motion and order of
17 court entered this day, copies whereof accompany this notice, and that you may, if you think proper, put such cross-interrogatories as are requisite and fit, and file the same in this court within three days from the service hereof.

Clerk's office, Dec'r 18th, 1865.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return on foregoing notice.

Received December 18, 1865, and on the same day, month, and year served a copy of this notice, a copy of the interrogatories, and of the motion of pl'ff's attorney on Edward W. Burbank, one of the defend'ts named in the above-entitled suit, personally, at his store, No. 71 Tchoupitoulas street, in this city.

New Orleans, December 18th, 1865.

(Signed) J. S. PREIS, *D'y U. S. Marshal.*

Notice to Thomas S. Burbank, def't.—Issued Dec'r 18th, 1865.

18 U. S. circuit court, eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

To Thomas S. Burbank:

Take notice that the plaintiff has this day filed interrogatories to certain witnesses therein named, copies of which interrogatories and affidavit and motion accompany this notice, and that you may, if you think proper, put such cross-interrogatories as are requisite and fit, and file the same in this court within three days from the service hereof.

Clerk's Office, New Orleans, December 18th, 1865.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return on foregoing notice.

Received December 19th, 1865, and on the same day, month, and year served a copy of the within notice, affidavit, motion, and
19 interrogatories on Thos. S. Burbank, one of the defendants in the above-entitled suit, by leaving the same at his domicil, 252 Annunciation street, in this city, in the hands of a free white person over 18 years of age, who represented herself to be the wife of said T. S. Burbank, he being absent from the city at the time of said service.

Returned, New Orleans, Dec'r 19th, 1865.

(Signed) J. J. PREIS, *D'y U. S. Marshal.*

Cross-interrogatories.—Filed December 21st, 1865.

U. S. circuit court.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. }

And now comes defendant, Edward W. Burbank, and reserving all legal exceptions to the interrogatories herein filed to William W. Bigelow and other witnesses, and specially reserving all exceptions to all and to each one of said interrogatories as leading ques-

20 tions, and specially that the action herein instituted, so far as said Thomas S. Burbank is concerned, should be dismissed, because the only action, according to allegations in plaintiff's petition, would be one for settlement of partnership accounts, and not for specific items, because an action for the liquidation of said alleged firm of Bigelow & Burbank, established in Mongomery, Alabama, can only be instituted in the courts of Alabama, and not in this honorable court; and further, because, according to the allegations of plaintiffs' petition, no fraud against the alleged firm of Bigelow & Burbank could be perpetrated, in which a member of the firm is alleged to be connected with; and further propounds to said witnesses the following cross-interrogatories:

1st. Do you state, in your answers to the foregoing direct interrogatories, that you know from your personal knowledge or from hearsay? If from your personal knowledge, state what portion of the same are from your knowledge; and if from hearsay, what por-
21 tion of said answers are from hearsay.

2d. In answer to the second direct interrogatory, state how and by what means you exactly know of said shipment; the number of bales; their respective weights. If you speak of a conversation with Edward W. Burbank, state when said conversation occurred, who were present, and exactly the words used by said E. W. Burbank. How do you know any letters were written by said Edward W. Burbank? Do you know his handwriting? Who have said letters now? Where are they? How do you remember the contents? What were their date? When written?

3d. What relation are you to said Edmond B. Bigelow? What interest, if any, have you in the result of this cause? Has the plaintiff, or any person in his employ and on his behalf, spoken to you regarding your testimony in this cause? If yea, state when, where, under what circumstance, and the substance of said conversation.

4th. How do you know that any cotton shipped by Bigelow
22 & Burbank to Griffin & Porche, ever came into possession of said E. W. Burbank? If yea, state how you know it.

(Signed) WHITAKER & FELLOWS,
Of Counsel.

Answer of Edw'd W. Burbank.—Filed January 9th, 1866.

United States circuit court, sixth circuit and eastern district of La.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

And now into court, through the undersigned, his counsel, comes Edward W. Burbank, one of defendants in the above-entitled and numbered cause, and to the petition of plaintiff denies all and singular its allegations, so far as the same, in any manner or form alleges indebtedness of respondent towards plaintiff, or charges respondent

with fraud or combination to wrong, injure, or cheat said plain-
23 tiff, Bigelow.

Wherefore respondent prays to be hence dismissed with costs.

(Signed) WHITAKER & FELLOWS,
Of Counsel.

Exception of Thos. S. Burbank.—Filed January 9th, 1866.

United States circuit court, sixth circuit and eastern district of La.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOMAS S. BURBANK. } No. 3,686.

And now into court, by the undersigned, his counsel, comes Thomas S. Burbank, and to the petition herein filed against him, files this his peremptory exception.

That, according to the allegations of plaintiff's petition, the only right of action which plaintiff would have, is one for settlement of the alleged partnership of Burbank and Bigelow, and not for a specific amount.

Wherefore respondent prays judgment on this his exception
24 in his favor, and that plaintiff's action be dismissed with costs.

For respondent,

(Signed) WHITAKER & FELLOWS,
Of Counsel.

Return to commission, m'k'd O.—Filed January 9th, 1866.—*Commission.—Issued 23d Dec'r*, 1865.

Circuit court of the United States for the sixth judicial circuit, holding sessions for the eastern district of Louisiana.

To any judge or justice of the peace, or to J. H. Nettles, justice of the peace at Montgomery, Ala., or to any commissioner for Louisiana in Alabama:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you Thos. H. Mosher, Ch's H. May, and J. Hausman, witnesses named in the annexed interrogatories-in-chief and cross-interrogatories, and them duly exam-
25 ine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein Edmond B. Bigelow is plaintiff, and Edward W. Burbank and Thomas S. Burbank are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said case, and send also this writ.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this

23d day of December, anno Domini 1865, and the 90th year of the independence of the United States of America.

[SEAL.] For CH'S CLAIBORNE, *Clerk.*
(Signed) F. B. VINOT, *D'y Clerk.*

Interrogatories annexed to foregoing commission copied at pages 11 to 15; cross-interrogatories at pages 19 to 22.

26 *Depositions of J. Hausman and Thomas H. Mosher, taken under the foregoing commission.—Filed January 9th, 1866.*

STATE OF ALABAMA, *Montgomery County:*

Depositions of J. Hausman, a witness sworn and examined to direct and cross-interrogatories, on behalf of the plaintiff, in a cause now pending in the circuit court of the United States for the sixth judicial circuit, holding sessions in and for the eastern district of Louisiana, wherein Edmond B. Bigelow is plaintiff, and Edward W. Burbank and Thomas S. Burbank are defendants, under and by virtue of a commission issue to any judge or justice of the peace, or to J. H. Nettles, a justice of the peace at Montgomery, Alabama, hereto attached, bearing date 23d day of December, 1865, and issued by the clerk of said court:

J. Hausman one of the witnesses named in said commission, unto me personally known, personally came before me, John B.
27 Fuller, a justice of the peace in and for the county of Montgomery, and State of Alabama, who being duly sworn—

To 1st int. he saith: He knows the parties to this suit. He became acquainted with E. W. Burbank in New Orleans in July, 1865, and with the other parties at Montgomery, Ala., in May last. T. S. Burbank and E. B. Bigelow composed the firm of Burbank & Bigelow, and did a general merchandise business, and purchased cotton in Montgomery, Alabama. He does not know what business relation existed between them and E. W. Burbank.

To 2d int. he saith: He knows nothing of any shipment of cotton and merchandise made to parties inquired. Witness purchased on commission forty-two bales of cotton of Lewey & Brother, at Montgomery, Alabama, for the firm of Burbank & Bigelow. He thinks he received two or two and a half dollars per bale commission. This cotton was received, weighed, marked, and shipped by E. B.
28 Bigelow, but does not know to whom shipped. He thinks said bales cotton would average five hundred pounds each. Knows the firm purchased other cotton, one bale they bought of witness. Witness sold to said firm four bales of osnaburgs, making two thousand sixty-nine and a half yards, at twenty-five cents per yard, on the 10th day of June, 1865; also one bale of sheeting, making seven hundred and thirty-two yards, at twenty-five cents per yard, on 10th June, 1865. He knows the firm bought another bale of osnaburgs, but does not know the number of yards, nor the price paid. Said osnaburgs and sheeting was shipped to New Orleans, but does not

know the consignee. He never wrote any letters to E. W. Burbank, nor does he know of any letters written by E. W. Burbank to the firm, nor did he ever have any conversation with E. W. Burbank and Thomas S. Burbank with reference to any merchandise shipped by Burbank & Bigelow to Griffin, Porch & Co., at Mobile.

To 3rd int. he saith: Does not know the weight of the cotton, but thinks that which he purchased would average five hundred pounds per bale. Can't say what the market price was at New York and New Orleans at that time. The cotton purchased by witness would class Montgomery middling.

To 4th int. he saith: He knows there was a firm established in Montgomery in May last called Burbank & Bigelow. They were tenants of witness. They did a general merchandise business, bought cotton and other country produce, and further the deponent saith not.

Cross-examined:

To 1st cross-int. he saith: He states from his own personal knowledge and has undertaken to state nothing from hearsay.

To 2d cross-int. he saith: He has already answered all he knows in reference to this matter in 2d direct interrogatory, he has already stated that he knows nothing of the matters and things inquired of in this interrogatory.

To 3rd cross-int. he saith: He is no relation of E. W. Bigelow, nor has he any interest in the result of this suit. The plaintiff came to witness on 1st Jan'y, 1866, and asked him to go before the commissioner and make answer to certain interrogatories. This is all the conversation had with any one about it previous to this examination.

To 4th cross-interrogatory he saith: He has already stated he knows nothing of the matters inquired of in this interrogatory.

(Signed) J. HAUSMAN.

I, John B. Fuller, a justice of the peace in and for Montgomery county, and State of Alabama, hereby certify that the above depositions of J. Hausman was taken by me, at my office in the city of Montgomery, Alabama, on the 2d day of January, A. D. 1866, after the deponent had been duly sworn to speak the truth, the whole truth, and nothing but the truth, that the said dopositions were read to witness, and heard throughout, and by him fully approved and signed. That I am not of counsel for either party to said suit, and that the said depositions were not out of my possession until the same was sealed up and directed to Charles Claiborne, clerk of the circuit court of the United States for the sixth judicial circuit holding sessions for the eastern district of Louisiana.

Given under my hand and seal at the city of Montgomery, Alabama, this the 2d day of January, 1866.

(Signed) JNO. B. FULLER, [L. S.]
Justice of the Peace.

STATE OF ALABAMA, *Montgomery County*:

Depositions of Thomas H. Mosher, a witness sworn and examined to direct and cross-interrogatories on behalf of the plaintiff, in a cause now pending in the circuit court of the United States for the sixth judicial circuit, holding sessions in and for the eastern
32 district of Louisiana, wherein Edmond B. Bigelow is plaintiff, and Edward W. Burbank and Thomas S. Burbank are defendants, under and by virtue of a commission issued to any judge or justice of the peace, or to J. H. Nettles, a justice of the peace at Montgomery, Alabama, hereto attached, bearing date 23d December, 1865, and issued by the clerk of said court.

Thomas H. Mosher, one of the witnesses named in said commission, unto me personally known, personally came before me, John B. Fuller, a justice of the peace in and for the county of Montgomery, and State of Alabama, who being duly sworn—

To 1st int. he saith: He is acquainted with the parties to this suit. He first knew them in New Orleans, about the time of the formation of their co-partnership in May last. The firm was composed of T. S. Burbank and E. B. Bigelow. They did business in Montgomery, Alabama. A general merchandise and cotton purchasing bus-
33 iness. Edward W. Burbank was the consignee and commission merchant of the firm of Burbank and Bigelow.

To 2d int. he saith: That Burbank and Bigelow did make shipments of cotton and merchandise to parties inquired. The first shipment was made about the 16th June last to E. W. Burbank, at New Orleans, consisted of fifty-seven bales of cotton, purchased from different parties by the firm of Burbank & Bigelow. He can't give the precise weight of the bales, but knows, from weighing some of them, that they would average over four hundred and seventy-five pounds each. Said shipment was made on account of Burbank and Bigelow by myself, as their agent. The next shipment was made on or about the 20th of June, 1865, through Griffin, Porch & Co., at Mobile, Alabama, to a New York firm, who, I understood at the time, was Sloan & Co.; it consisted of fifty-seven bales of cotton, shipped by myself, as their clerk, on account of Burbank and Bigelow. He cannot give the precise weight of the bales, but knows, from weighing some of them, that they would average over four hundred and
34 seventy-five pounds each. He knows there was a lot of cotton purchased by Burbank and Bigelow from the Leroys in Montgomery, Alabama. He saw the cotton shipped sometime about the 20th June, 1865. He heard T. S. Burbank say at the time that it was to go to New York. He does not know the number of bales of cotton, nor does he know the weight of the bales; they were of the ordinary size. He knows that the firm of Burbank and Bigelow purchased one bale of osnaburgs, which was shipped to E. W. Burbank, at New Orleans, on account of Burbank & Bigelow, said osnaburgs cost twenty-one cents per yard in Montgomery. He does not know the number of yards. He knows the facts above stated from having been the clerk and agent of the firm at that time, from

having purchased a portion of the cotton, seeing it paid for by the firm money, from the declarations of both partners, and from having access to the books of the firm. He never wrote any letters to E. W. Burbank for the firm, E. W. Burbank was in the habit of
35 writing to the firm of Burbank and Bigelow, which letters were addressed to his brother, T. S. Burbank. He did speak in a letter dated 30th June, 1865, "That I could not find more than fifty-six bales of cotton; if there is any more it is lost. I never yet have got any bill of lading of the cotton. If you have any that call for fifty-seven bales of cotton you had better send it along; if not, you will never see it." This letter is before him while he answers, and he knows it to be in the handwriting of E. W. Burbank. The letter is in the possession of E. B. Bigelow, from whom I received it to make this answer. He has put his name and this date on the back of said letter. He heard E. W. Burbank say, about the 6th July, 1865, that the cotton shipped by his brother, T. S. Burbank, had not been burned at the landing at New Orleans; he also asked witness why it was he procured no bill of lading for cotton which he, witness, shipped on his own account to said E. W. Burbank. Witness replied "that the boat could furnish no blanks." E.
36 W. Burbank then said that he had some printed for Burbank & Bigelow, so that when they shipped cotton they could fill one out and take it down to the boat and have them to sign it, and that he would give witness some of them.

To the 3d int. he saith: That he believes that the average weight of said cotton was about four hundred and seventy-five pounds per bale; at the time of the shipment of said cotton it was worth forty cents in New Orleans and forty-five cents in New York, but since that time it would have sold in New Orleans for over fifty cents, and in New York for over fifty-five cents. It would all average New Orleans low middling.

To the 4th int. he saith: He knows nothing more of his own knowledge which would benefit the plaintiff in this action, further than about the 20th of July, 1865, T. S. Burbank offered to sell to witness his half interest in the firm of Burbank & Bigelow. Witness then asked him if he would sell the whole interest.
37 He said he would not, but would sell his half interest.

Cross-examined:

To the 1st cross-int. he saith: He has stated from his personal knowledge; where he has stated anything from hearsay it is so stated in his answer. All he has stated is from his own personal knowledge. The hearsay which he has stated consists of the declaration of the parties which he has undertaken to give.

To the 2d cross-int. he saith: He saith he has answered fully in the 2d direct interrogatory. The conversation had with E. W. Burbank was in New Orleans, which he has given to the best of his recollection in answer to 2d direct interrogatory. He thinks Samuel A. Burbank and a clerk of E. W. Burbank were present and heard this conversation. He does not know that the letter was received

from E. W. Burbank, but thinks it was in his handwriting; and
38 that he knows his writing from having received letters from him. The letter spoken of is in the possession of E. B. Bigelow. The contents he has spoken of was copied by the commissioner from the said letter. He has already given its date.

To 3d cross-int. he saith: He is no relation of plaintiff and has no interest in the result of this cause. E. B. Bigelow has spoken to him in reference to what his testimony would be in this cause, and he give it to him as he now gives it under oath. On the 26th day of December, 1865, E. B. Bigelow called on him for this purpose. He cannot give all that was said, but knows that he has answered fully as to the subject-matter of that conversation.

To the 4th cross-int. he saith: He does not know that any cotton shipped Griffin, Porch & Co. ever came into the possession of E. W. Burbank, and has not so stated.

(Signed) T. H. MOSHER.

39 I, John B. Fuller, a justice of the peace in and for Montgomery county, and State of Alabama, hereby certify that the above depositions of Thomas H. Mosher was taken by me, at my office in the city of Montgomery, Alabama, on the 1st day of January, A. D. 1866, after the deponent had been duly sworn to speak the truth, the whole truth, and nothing but the truth.

That the said depositions were read to witness and heard throughout, and by him fully approved and signed. That I am not counsel to either party to said suit, and that the said depositions were not out of my possession until the same was sealed up and directed to Charles Claiborne, clerk of the circuit court of the United States for the sixth judicial circuit, holding sessions for the eastern district of Louisiana.

Given under my hand and seal at the city of Montgomery, Alabama, this 1st day of January, one thousand eight hundred and sixty-six.

(Signed) JNO. B. FULLER, [L. S.]
Justice of the Peace.

40 STATE OF ALABAMA, *Secretary of State's Office, Alabama:*

MONTGOMERY, *Jan'y* 3*d*, 1866.

I, Albert Elmore, secretary of state of the State of Alabama, do hereby declare and make known to all persons whom it may concern, that Jno. B. Fuller, whose signature appears to the foregoing certificate, was at the time of signing the same, and at the date thereof, an acting justice of the peace in and for the county of Montgomery, and State of Alabama, as appears from the records filed in this office, and full faith and credit are due to all his official attestations as such.

Given under my hand and the great seal of the State, affixed in the city of Montgomery the day and year above written, and the independence of the United States the ninetieth year.

(Signed) ALBERT ELMORE, [L. S.]
Secretary of State.

41 *Rule on G. W. Griffin and G. W. Porche—Filed January 18th, 1866.*

United States circuit court, sixth circuit and eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOS. S. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, attorney for the plaintiff, and on suggesting to the court that Messrs. Griffin and Porche, merchants in this city, have in their possession certain books, papers, and documents that are important and material to establish the claim of the plaintiff, which books and papers are as follows:

1st. The journal and ledger and cotton books of the firm known as Griffin, Porche & Co., of Mobile, and the journal and ledger and cotton book of Griffin & Porche, of New Orleans, containing entries made between the 20th June, 1865, and 15th Jan'y, 1866.

2d. The receipt books and cash books of Griffin & Porche and Griffin, Porche & Co., containing entries made therein between 20th June, 1865, and 15th Jan'y, 1866.

42 3. The account sales rendered to Griffin & Porche & Griffin, Porche & Co., of cotton which they received from Bigelow & Burbank, and shipped to New York or elsewhere

4. The receipt or bill of lading given by the steamers Flirt, Coquette, and by any other boat or boats that brought the cotton and paper stock from Montgomery to Mobile.

5. The ledger containing the account of Griffin & Porche and Griffin, Porche & Co. against Bigelow & Burbank, or T. S. Burbank, for expenses paid on cotton, and the journal that belongs to that ledger.

It is ordered that Geo. W. Griffin and G. W. Porche show cause, on Monday, 22d inst., at 11 A. M., why they should not deposit with the clerk of this court for the examination of the pl'ff the said books and papers.

Edmond B. Bigelow, sworn, says: That all the allegations contained in the foregoing motion are true; that he has requested the said Griffin & Porche to render to him account sales of 108
43 bales of cotton and two bales of paper stock, received by them from Burbank & Bigelow, or T. S. Burbank, belonging to Burbank & Bigelow, and they have neglected and refused to do do, and have given him evasive answers.

(Signed) E. B. BIGELOW.

Sworn to and subscribed before me, Jan'y 18th, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return on foregoing rule.

Received motion and rule for Griffin & Porch, this 19th day of January, 1866, and on the same day, month, and year served a copy of the within motion and rule on Geo. Porche, personally, as one of the firm of Griffin & Porche, named herein, at 39 and 41 Tchoupitoulas street, in this city, Mr. Griffin, the first named, being absent.

New Orleans, January 19th, 1866.

(Signed) WM. GRASS,
D'y U. S. Marshal.

44 *Motion and order for subp. duces tecum.—Extract from the minutes of January 18th, 1866.*

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOMAS S. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, attorney for plaintiff, it is ordered by the court that Edward W. Burbank and Thomas S. Burbank produce in court on the trial of this cause, to wit, on the 3d February, 1866, at 11 a. m., the book known as the cotton book of Burbank & Bigelow.

Affidavit and statement of E. B. Bigelow.—Filed with the foregoing motion Jan'y 18, 1866.

Edmond B. Bigelow, sworn, says: That he expects to prove by said cotton book that there is written in it an entry in the words and figures following:

57 bales cotton shipped to E. W. Burbank, N. O., to be sold for our account.

Article.	Marks.	Of whom purchased.	Date.	Weight.	To whom sent.	Conveyance.
1 b. cotton..	A—1	M. W. Street...	June 16..	480	.....	St. Magnolia.
1..do.....	A—2	J. H. Robert ...	....do....	554		
1..do.....	A—3					
1..do.....	A—4					
1..do.....	F [s] L					
2..do.....	P L—1 & 2	S. H. Hardin...	June 19..	1,125		
2..do.....	F L—3 & 4	Wm. Johnson ..	19..	932		
3..do.....	A—5, 6, & 7	W. R. Vaughn .	19..	1,430		
20..do.....	a—8 to 10	R. J. Woods....	19..	9,330		
1..do.....	A—29	R. Y. Jones	19..	460		
23..do.....	M—1 to 23					
1..do.....	No mark.	Lost.				

57 bales of cotton shipped to Sloan & Co., New York, care Griffin Porch & Co., Mobile, Sloan, care of G. P. & Co.

Article.	Marks.	Of whom purchased.	Date.	Weight.	To whom sent.	Conveyance.
19 b. cotton..	B—1 to 19	Sundry purch's.	June 19..	.....	.....	St'r Flirt.
3..do.....	20, 21, 22	Anna Murphy..	20..	1,500		
35..do.....	1 to 35	Maj. D. S. Arnold.	20..			

(44 & 45 bls.)
(46 bls.)

42 bales of cotton, shipped to Sloan & Co., N. Y., care Griffin, Porch & Co., Mobile.

Articles.	Marks.	Of whom purchased	Date.	Weight.	To whom shipped.
5 b. cotton.	B & B—38 to 42	B. M. & H. Levy...	June 30	2,466	Sloan & Co., care of G. P. & Co., St'r Coquette.
37..do.....	1 to 37	.....do.....	...do...	18,123	

9 bales of cotton and 2 bales paper stock, shipped to care of Griffin P. & Co., Mobile, Ala.

Articles.	Marks.	Of whom purchased.	Date.	Weight.	To whom shipped.
2 b. cotton..	B	A. & E Fuller.....	June 28	895	
1...do.....	D—1	W. W. Bingstaff...	30	647	
1...do.....	D—2	P. J. Allsopp.....	30	480	
1...do.....	D—3	Wilson Goetter....	July 1	530	
1...do.....	D—4	Tho's Bogett.....	6	472	
1...do.....	D—5	Mrs. Brooks.....	7	423	
2°..do.....	[P]	Jas. Gilmore.....	8	775	
1...do.....	D—6	Loose cotton.....	8		
1...do.....	D—7	Ex gov't warehouse	8		

° Paper stock baled.

(Signed) E. B. BIGELOW.

Sworn to and subscribed before me, this 18 Jan'y, 1866.
(Signed) F. B. VINOT, *D'y Clerk.*

REC. 322—2

Subpœna duces tecum to Edward W. Burbank.—Issued January 18th, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The President of the United States to Edward W. Burbank:

45 You are hereby commanded to be and appear, and to bring with you the book known as the cotton book of Burbank & Bigelow, before the circuit court of the United States for the 6th circuit, in and for the said district, to be holden at the city of New Orleans on the 3d day of February, 1866, then and there to be used in evidence in a certain cause now depending therein, and to be tried, between Edmond B. Bigelow and Edward W. Burbank and Thomas S. Burbank, at 11 o'clock a. m., and herein fail not, under the penalty of two hundred and fifty dollars.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city New Orleans, this 18th day of January, in the year of our Lord one thousand eight hundred and sixty-six, and in the 90th year of American independence.

(Signed) CHARLES CLAIBORNE, *Clerk.* [L. S.]
By F. B. VINOT, *D'y Cl'k.*

Marshal's return on foregoing subp. D. T.

46 Received January 19th, 1866, and on the same day, month, and year served a copy of the within subpœna duces tecum on Edw'd W. Burbank personally, at his store, No. 71 Tchoupitoulas street, in this city, he being the defendant named in the above-entitled suit.

New Orleans, January 20, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

Subpœna duces tecum to Thos. S. Burbank.—Issued January 18, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The President of the United States to Thomas S. Burbank:

You are hereby commanded to be and appear, and to bring with you the book known as the cotton book of Burbank and Bigelow, before the circuit court of the United States for the 6th circuit, in and for the said district, to be holden at the city of New Orleans
47 on the third day of February, 1866, then and there to be used in evidence in a certain cause now depending therein, and to be tried, between Edmond B. Bigelow and Edward W. Burbank and Thos S. Burbank, at 11 o'clock a. m., and herein fail not, under the penalty of two hundred and fifty dollars.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this

18th day of January, in the year of our Lord one thousand eight hundred and sixty-six, and in the 90th year of American independence.

[L. S.] CHARLES CLAIBORNE, *Clerk.*
(Signed) By F. B. VINOT, *D'y Cl'k.*

Marshal's return on foregoing subp. D. T.

Received January 19th, 1866, and same day, month, and year served a copy of the within subpœna duces tecum on Thos. S. Burbank, the defendant named herein, by leaving it at his domicil, 252 Annunciation street, in this city, in the hands of his wife, the said T. S. Burbank being absent from his domicil at the time of
48 said service.

New Orleans, January 30th, 1866.

(Signed) M. EGAN,
D'y U. S. Marshal.

Order fixing exception of T. S. Burbank.—Extract from the minutes of 19th January, 1866.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOMAS S. BURBANK. } No. 3,686.

On motion of Whitaker and Fellows, of counsel for Thomas S. Burbank, one of the defendants in this case—

Ordered that the exceptions herein filed be fixed for trial for Wednesday next, 24th inst, at 11 o'clock a. m., and that plaintiff's counsel be notified thereof.

Notice of trial.—Issued Jan'y 19th, 1866.

49 Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

You are hereby notified that the exceptions filed by Thomas S. Burbank in this case are assigned for trial for Wednesday, the 24th day of January, 1866, A. D., at 11 o'clock a. m.

By order of court.

Witness my hand and seal of the said court, at New Orleans, this 19th day of January, A. D. 1866.

[L. S.] CHARLES CLAIBORNE, *Clerk.*
(Signed) F. B. VINOT, *D'y Clerk.*

To GEO. L. BRIGHT, Esq.

Marshal's return on foregoing notice.

Received January 19th, 1866, and on the 22d day of same month and year served a copy of the above notice on G. L. Bright, esq'r., personally, at his office, in Natchez street, near Bank alley, in
50 this city, he being attorney for plaintiff in the above suit.

New Orleans, January 22d, 1866.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

Answer to rule.—Filed January 22d, 1866.

United States circuit court, sixth circuit and eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOS. S. BURBANK. } No. 3,686.

Now comes G. W. Porch, and for answer to the rule taken herein, says:

That he is ready to produce, and now produces in court, the journal and ledger of the firm known as Griffin, Porch & Co., of Mobile, as also the books of Griffin & Porch, of New Orleans, named in the first ground of plaintiff's motion; but says he has no cotton books of the description named in either case.

51 2d. He brings also receipt and cash books of the Mobile house.

3d. In answer, he says that the firm of Griffin, Porch & Co., of Mobile, hold no account sales whatever from Bigelow & Burbank, nor does the house of Griffin & Porch, of New Orleans.

4th. Respondent says he has no bill of lading or receipt, as described in fourth ground of rule.

5th. That the documents called for in the fifth ground of rule, if existing at all, appear in the books first called for in the books of Griffin, Porch & Co., of Mobile.

And this respondent further says that the journal and ledger and receipt and cash books of Griffin & Porch, of New Orleans, called for in the first ground of rule, are of material necessity to this respondent in the prosecution of the business of said firm in this city, and he prays to be dispensed with the duty of producing the last-named books, except for mere inspection.

And thus having fully answered, he prays to be hence dismissed with his full costs.

(Signed) WHITAKER & FELLOWS,
Of Counsel.

52 (Signed) G. W. PORCH.

Sworn to and subscribed before me, this 22 Jan'y, 1866.

(Signed) F. B. VINOT, *D'y Clerk.*

Additional answer to rule.—Filed in open court January 22, 1866.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOS. S. BURBANK. } No. 3,686.

And in answer to the motion to produce certain acc't sales, as set forth in 3d ground, he says that he has no account sales rendered to either firm, whether of Mobile or of New Orleans, by parties in New York or elsewhere, of cotton received from Bigelow & Burbank, though Griffin & Porch have account sales for account of Edward W. Burbank, but have no such account sales as those called for.

(Signed) G. W. PORCH.

53 Sworn to and subscribed before me, this 22d Jan'y, 1866.

(Signed) F. B. VINOT, *D'y Clerk.*

Order rule absolute.—Extract from the minutes of 22d *January*, 1866.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

The rule herein taken by plaintiff on the 18th instant upon Griffin and Porche came up for trial—Geo. L. Bright, esq., for plaintiff in rule, Whitaker & Fellows for defendants in rule—when, after hearing counsel, it is agreed that the rule be made absolute so as to allow the plaintiff access to all the books and papers which the defendants in rule admit in their answer to be in their possession.

54 *Hearing and submission of T. S. Burbank's exceptions.—Extract from the minutes of* 24*th January*, 1866.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

The exceptions filed by Thomas S. Burbank came up for trial—Whitaker & Fellows for plaintiff in exception, Geo. L. Bright for Bigelow, not present—when, after hearing the pleadings and argument, the court took time to advise.

Judgment sustaining exception of Thomas S. Burbank and dismissing suit as to him.—Rendered Jan'y 19*th*, 1866.

Circuit court of the United States, sixth circuit and eastern district of Louisiana, November term, 1865.

NEW ORLEANS, *Monday, January* 29*th*, 1866.

55 Court met pursuant to adjournment. Present, Hon. Edw. H. Durell, district judge.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

For reasons orally assigned by the court, it is ordered that the ex-

ception filed by Thomas S. Burbank be sustained, and that this suit as to him be dismissed with costs

Judgment rendered January 29th, 1866. Judgment signed February 2d, 1866.

(Signed) E. H. DURELL, *Judge.*

Motion and order for subp. duces tecum.—Extract from the minutes of 29th January, 1866.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

56 On motion of Geo. L. Bright, counsel for the plaintiff, it is ordered by the court that E. W. Burbank produce on the trial of this suit, to wit, on Saturday, 3d February, 1866, at 11 a. m., his journal and ledger in which the account for and against Burbank & Bigelow is kept, also the letters written by W. W. Bigelow for Burbank & Bigelow in June, 1865, instructing E. W. Burbank to ship cotton to New York and draw upon the same all it would bear, and place the amount to the credit of Burbank & Bigelow.

Subpœna duces tecum on E. W. Burbank.—Issued Jan'y 29th, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The President of the United States to Edward W. Burbank:

You are hereby commanded to be and appear, and to bring with you your journal and ledger in which the account for and
57 against Burbank & Bigelow is kept, also the letters written by W. W. Bigelow for Burbank & Bigelow in June, 1865, instructing E. W. Burbank to ship cotton to New York, and draw upon the same all it would bear, and place the amount to the credit of Burbank & Bigelow, before the circuit court of the United States for the 6th circuit in and for the said district, to be holden at the city of New Orleans, on the third day of February, 1866, then and there to be used in evidence in a certain cause now pending therein, and to be tried, between Edmond B. Bigelow and Edw. W. Burbank and T. S. Burbank, at 11 o'clock a. m., and herein fail not, under the penalty of two hundred and fifty dollars.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 29th day of January, in the year of our Lord one thousand eight hundred and sixty-six, and in the 90th year of American independence.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return on foregoing subp. d. t.

58 Received January 30th, 1866, and on the same day, month, and year served a copy of the within subpœna duces tecum on

E. W. Burbank, the person named herein, by leaving it at No. 71 Tchoupitoulas street, in this city, in the hands of T. S. Burbank, brother and partner of said E. W. Burbank, who is absent from the city.

New Orleans, February 1st, 1866.

(Signed) G. HOLLANDER,
D'y U. S. Marshal.

Rule on E. B. Bigelow, plaintiff, to show cause.—Extract from the minutes of 29th January, 1866.

EDMOND B. BIGELOW
vs.
EDW. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

On motion of Whitaker & Fellows, counsel for Edward W. Burbank, and on suggesting to the court that the ledger, blotter, cash, and receipt books of the firm of Burbank & Bigelow, have been
59 taken from the possession of T. S. Burbank, as liquidating partner of said firm, by Edmund B. Bigelow plaintiff herein, and that said books are necessary to respondent in his defence in this case, it is ordered by the court that Edmund B. Bigelow, plaintiff, show cause, on Friday, the 2d February proximo, at 11 a. m., why said books should not be produced into court for the purposes of inspection and of his defence.

Marshal's return on foregoing rule.

Received January 30th, 1866, and on the same day, month, and year served a copy of the within rule on G. L. Bright, esqr., personally, he being att'y for plaintiff in above-entitled suit.

New Orleans, February 1st, 1866.

(Signed) G. HOLLANDER,
D'y U. S. Marshal.

Petition and order for delay.—Filed January 29th, 1866.

60 United States circuit court, sixth circuit and eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK and THOS. S. BURBANK. } No. 3,686.

And now comes Thomas S. Burbank, one of the defendants in the above-entitled cause, and reserving to himself all rights under the exception heretofore filed in this case, says:

That the books, embracing ledger, blotter, cash, and receipt books of the firm of Burbank & Bigelow are necessary to this respondent before he can answer fully to the suit filed herein, from the fact that he cannot prepare his answer until said books are produced, and that said books are in possession of said Bigelow.

Wherefore he prays that the court grant a delay for three days, in order that this respondent may have inspection of said books on the production of the same in court, before filing his answer herein,
61 and that the court grant all general relief.

(Signed) WHITAKER & FELLOWS,
Of Counsel.

Order.

Let the time for answering in this case be extended till the 3rd proximo.

Jan'y 29th, 1866.

(Signed) E. H. DURELL, *Judge.*

Order rule absolute.

Extract from the minutes of 2nd February, 1866.

EDMOND B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

The rule taken by E. W. Burbank on the 29th January, 1866, came up for trial. Whitaker & Fellows, for plaintiff in rule; Geo. L. Bright, esq., attorney for defendant in rule, not present.

When, after hearing the pleadings, ordered that the rule be made absolute, and that the books be produced as prayed for.

62 *Order.—Cause continued.*

Extract from the minutes of 3rd February, 1866.

EDMOND B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

By consent, this case is continued till next Saturday, at 11 a. m.

Motion and order for subpœna duces tecum.

Extract from the minutes of 7th February, 1866.

EDMOND B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, esq., att'y for plaintiff, it is ordered that E. W. Burbank produce, on the 10th instant, at 11 a. m., date and hour of the trial of this cause, three letters written to him by Burbank and Bigelow, advising him of the shipments of cotton
63 to him, and directing him to ship it to New York and to draw upon it.

Subpœna duces tecum on E. W. Burbank.—Issued February 7th, 1866.

Circuit court of the United States for the sixth circuit and eastern district of Louisiana.

The President of the United States to E. W. Burbank:

You are hereby commanded to be and appear, and to bring with you three letters written to you by Burbank and Bigelow, advising you of the shipments of cotton to you, and directing you to ship it to New York and to draw upon it, before the circuit court of the United States for the 6th circuit in and for the said district, to be holden at the city of New Orleans on the 10th day of February, 1866, then and there to be used in evidence in a certain cause now depending therein, and to be tried between E. B. Bigelow and E. W. Burbank and T. S. Burbank, at 11 o'clock a. m., and herein fail not,
64 under the penalty of two hundred and fifty dollars.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 7th day of February, in the year of our Lord one thousand eight hundred and sixty-six, and in the 90th year of American independence.

(Signed) F. B. VINOT, *D'y Clerk.* [L. S.]

Marshal's return on foregoing s. d. t.

Received February 7th, 1866, and same day, month, and year served a copy of the within subpœna on E. W. Burbank personally, at 71 Tchoupitoulas street, in this city.

New Orleans, February 8th, 1866.

(Signed) M. EGAN,
D'y U. S. Marshal.

Affidavit for commission by def't.—Filed February 7th, 1866.

65 United States circuit court, eastern district of Louisiana.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

Personally appeared E. W. Burbank, defendant in the above-entitled suit, who, being duly sworn, deposes and says that the testimony of J. Levy or M. Levy, of the firm of J. &. M. Levy, of Arnold, of J. H. Mosher and J. Hausman, of Montgomery, Alabama, and of H. Sloan, of Philadelphia, Pennsylvania, is material to this defendant in the defence of the above-entitled suit; and that it is therefore necessary that commissions issue to some judge or justice of the peace at Montgomery, Alabama, and to some judge or justice of the peace at Philadelphia, Penn., for the purpose of obtaining said testimony.

(Signed) E. W. BURBANK.

Sworn to and subscribed before me, this seventh day of February, A. D. 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

66 *Motion and order for commission.*

Extract from the minutes of 7th Feb'y, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

On motion of Whitaker & Fellows, of counsel for E. W. Burbank, and on suggesting to the court that the testimony of J. Levy or M. Levy, of the firm of J. & M. Levy, of Arnold, of J. H. Mosher and J. Hausman, of Montgomery, Alabama, and of H. Sloan, of Philadelphia, Pensylvania, is material to the defendant in the defence of the above-entitled suit, it is ordered by the court, that a commission issue to any judge or justice of the peace at Mongomery, Ala., and also a further commission to any judge or justice of the peace, at Philadelphia, Penn., for the taking of said testimony.

Interrogatories by defendant, E. W. Burbank.—Filed Feb'y 7th, 1866.

67 United States circuit court.

E. B. BIGELOW
vs.
E. W. and T. S. BURBANK. } No. 3,686.

Interrogatories propounded on behalf of E. W. Burbank, defendant, to H. Sloan, of the firm of Sloan & Sons, of Philadelphia, Penn.

Int. 1st. Do you know the parties to this suit? If yea, how long have you known them? Have you received shipments of cotton from them? If yea, how many bales?

Int. 2nd. How many shipments have you had from them? How many bales in each shipment?

Int. 3rd. Is it to your knowledge that Burbank & Bigelow, composed of T. S. Burbank and E. B. Bigelow, had any interest in these shipments?

Int. 4th. If you answer the last interrogatory in the negative, state who had an interest in said shipment of the parties named in this suit.

(Signed) WHITAKER & FELLOWS,
Of Counsel.

68 *Interrogatories by defendant, E. W. Burbank.—Filed Feb'y 7th*, 1866.

United States circuit court, eastern district of Louisiana.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

Interrogatories propounded on the part of defendant, E. W. Burbank, to J. Levy or M. Levy, of the firm of J. & M. Levy, to Arnold, to T. H. Mosher and J. Hausman, of the firm of J. Hausman & Co., all resident in Montgomery, Alabama:

Int. 1st. Do you know the parties to this suit?

Int. 2nd. Did T. S. Burbank purchase cotton of you? And if yea, how much?

Int. 3rd. Did you sell any cotton to Burbank & Bigelow? If yea, how much, and who purchased it?

Int. 4th. Which partner of the house of Burbank & Bigelow was in the habit of purchasing cotton?

69 Int. 5. Is it to your knowledge that E. B. Bigelow ever bought any cotton for the account Burbank & Bigelow, or for his own account? If yea, how much, and whom did he purchase from?

Int. 6th. Do you know W. W. Bigelow? If yea, state whether or not it is to your knowledge if he was in partnership with E. B. Bigelow? State the period and time when such partnership existed.

Int. 7th. Was W. W. Bigelow, to your knowledge, interested in the profits of Burbank & Bigelow; and if yea, to what extent?

(Signed) WHITAKER & FELLOWS,
Of Counsel.

Notice to E. B. Bigelow, plaintiff—Issued 7th Feb'y, 1866.

U. S. circuit court, eastern district of Louisiana.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK & THOS. S. BURBANK, } No. 3,686.

To Edmond B. Bigelow:

70 Take notice that the defendant, E. W. Burbank, has this day filed interrogatories to certain witness named therein, and in the motion and order of court entered this day, copies whereof accompany this notice, and that you may if you think proper put such cross-interrogatories as are requisite and fit, and file the same in this court within three days from the service hereof.

Clerk's office, February 7th, 1866.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

Marshal's return on foregoing notice.

Received Febr. 9th, and on the 9th day of same month and year, served a copy of the notice to E. B. Bigelow, the plaintiff herein, with the order of court for commissions and the copies of interrogatories to H. Sloan, J. Levy or M. Levy, and others, by giving them to Geo. L. Bright, esq., personally, he being the attorney for said Bigelow, the plaintiff herein.

New Orleans, February 10th, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

71 *Note of evidence.—Filed Feb'y 10th, 1866.*

E. B. BIGELOW
vs.
E. W. & T. S. BURBANK. } No. 3,686.

Note of evidence:

Pl'ff offered in evidence the deposition of witnesses taken under commission, marked O.

Pl'ff calls for the production of the letters mentioned in the subpœna duces tecum.

Also for the cotton book.

In response to the call the def't offered the sworn answers now filed and marked O and P.

E. B. Bigelow, W. W. Bigelow, A. F. Dunbar, pl'ff's witnesses.

T. S. Burbank, J. Schlafe, def't's witnesses.

Depositions taken under commission and offered in evidence by plaintiff in foregoing minute of evidence and marked O, copied at page 24.

72 *Answer of E. W. Burbank, marked "Oa," offered in evidence by defendant, filed Feb'y 10th, 1866.*

U. S. circuit court.

EDMOND B. BIGELOW
vs.
EDWARD W. BURBANK. } No. 3,686.

And now comes E. W. Burbank, and for answer to the order served on him to produce a cotton book containing certain entries set forth in rule, says that he has no such book in his possession or under his control, and never had such book; and further answering says, that all the books that belonged to the firm of Bigelow & Burbank were taken from the store of this respondent and were not returned until such time as pl'ff was required to produce the same in court; and this affiant further states that he neither has nor had any such book as that called for, nor is he aware that there was any such book among the books that were taken from his store by said pl'ff.

(Signed) E. W. BURBANK.

73 Sworn to and subscribed before me, this 10th February, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Answer of T. S. Burbank, marked P, and offered in evidence by def't, February 10th, 1866.

U. S. circuit court.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

And now comes also T. S. Burbank, on whom has been served a notice to produce in court a certain book termed the "cotton book of

Burbank & Bigelow;" says he has no such book in his possession and never had, that he did have a certain private memorandum book of his own among the books left at E. W. Burbank's store, containing certain private memoranda of cotton, &c., but not as far as he can remember, such as those stated, or that accords therewith, and
74 that this private memorandum book was taken from the store of E. W. Burbank at the time the books of Burbank & Bigelow were taken away. There was a large number of entries in this memorandum book relating to cotton and other matters; and that he has never seen this book since it was taken away as above stated.

(Signed) T. S. BURBANK.

Sworn to and subscribed before me, this 10th Feb'y, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Hearing, continuance, order fixing and transferring case to jury.—Extract from the minutes of 10*th February*, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause was called up for trial, G. L. Bright, esq., for plaintiff; Whitaker & Fellows for E. W. Burbank.

75 When, after hearing the pleadings and evidence in part, ordered that the cause be continued and tried before a jury on Friday next, 16th inst., at 11 a. m.

Peremptory exception by E. W. Burbank.—Filed Febr'y 16th, 1866.

United States circuit court.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

And now comes E. W. Burbank and peremptorily excepts to the suit herein filed because he says that by the pleadings it appears the said E. B. Bigelow is a partner of T. S. Burbank, and that said partnership is in liquidation, and therefore that said E. B. Bigelow has no legal right whatever to stand in judgment against this respondent, separately and apart from his said partner, T. S. Burbank.

76 Second. That the said T. S. Burbank, under exception already filed and maintained by this court, has ceased to be a party to this suit, and can in no sense be considered a plaintiff therein.

Third. That the pretended claim in this suit against E. W. Burbank arises out of matters alleged to have been connected with the partnership of Burbank and Bigelow, and that the said Bigelow cannot therefore stand in judgment, and is without any legal right to prosecute in his own name this suit.

Wherefore he prays that this exception be maintained, and that this suit be dismissed with costs.

(Signed) J. S. WHITAKER, *of Counsel.*

Hearing, order overruling exceptions, and continuing cause.—Extract from the minutes of 16*th February*, 1866.

77 E. B. BIGELOW
vs.
E. W. BURBANK & T. S. BURBANK. } No. 3,686.

This cause was called up for trial before the court and a jury, Geo. L. Bright, esqr., for plaintiff, Whitaker & Fellows for E. W. Burbank, defendant.

And the court having overruled the peremptory exceptions now filed by the defendant, on the ground that they came too late, the following persons were called and sworn on said jury, to wit:

Theodore Danziger, Salomon Bloom, T. W. Hall, M. Meilleur, David Grant, and there not being a sufficient number of jurors present to complete the panel—

Ordered that the cause be continued till Monday next, 19th inst., at 11 A. M., and that the necessary steps be taken to secure a full panel.

Sworn statement of E. W. Burbank, m'k'd Q.—Filed February 19*th*, 1866.

78 U. S. circuit court.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

And now comes E. W. Burbank, and for answer to the rule calling for the production of three certain letters alleged as written to him, by Burbank & Bigelow advising him of shipments of cotton to him, and directing him to ship it to New York, and to draw upon it; says that he has no such letters in his possession, and that he has no knowledge of any such letters, and that he has looked through his files of letters, and can find none such as those described.

(Signed) E. W. BURBANK.

Sworn to and subscribed before me, this 19th Febr'y, 1866.

(Signed) F. B. VINOT, *D'y Cl'k*.

Note of evidence.—Filed Febr'y, 19*th*, 1866.

79 E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.—Jury.

Pl'ff calls for the production of the three letters mentioned in subp. duces tecum.

In answer to the call the defendant produces his sworn statement, marked Q.

E. W. Burbank, T. S. Burbank, E B. Bigelow, sworn for pl'ff.

Def d't offered in evidence the answer marked P.

Defendant offered documents marked R & T.

Statement marked Q, and offered in evidence by defendant, copied at page 78.

Answer marked P, at page 73.

Document R.—Offered in evidence by defendant, Febr'y 19th, 1866.—Filed same date.

80 Mess. Burbank & Bigelow, in ac. with E. W. Burbank.

Sept. 29.	To balance as for ac. rendered	$23,088	11
Oct. 11.	To insurance on goods to Mobile	7	88
	To balance	3,591	18
		26,687	17

Credit.

Nov. 17.	By cash invested for my ac	14,043	18
Nov. 20.	By net proceeds sales 63 bales cotton	11,798	54
Nov. 20.	By net proceeds sales 5 bales cotton	845	45
		26,687	17
	By balance due you	3,591	18

E. E.

New Orleans, Nov. 21st, 1865.

(Signed) E. W. BURBANK.
Pr. J. H. LAFAYE.

Account sale of paper stock and hides, per schr. Wings of the Morning, from New Orleans, of Mr. E. W. Burbank, damaged on voyage, by sea-water, and sold at auction.

81 SALE.

1865.

Dec. 14.	12 b'ls mix'd cot. rags, 8,811 lbs., *a* 4½	$396 49
Dec. 14.	5 b'ls mix'd woolen rags, 3,600 lbs., *a* 3⅛	112 50
Dec. 14.	5 b'ls gunny bags, 2,980 lbs., *a* 3⅜	100 57
Dec. 14.	6 b'ls manilla rope, 5,160 lbs., *a* 6.35	327 66
Dec. 14.	2 b'ls hemp rope, 1,500 lbs., *a* 7¾	116 25
Dec. 14.	2 b'ls rope cuttings, 1,390 lbs., *a* 5⅛	71 24
Dec. 14.	5 b'ls cotton pickings, 2,598 lbs., *a* 3¼	84 43
Nov. 4.	50 dry hides, }	
Nov. 4.	16 pieces dry hides, 773 lbs., *a* 6 }	46 38
		1,255 52

CHARGES.

Freight from New Orleans	126 14	
Auctioneer's charges	67 65	
Comm., 5 p. c.	62 77	
		256 56
Net proceeds		998 96

E. & O. E.

(Signed) C. S. LEONARD.

Document T.—Offered and filed in evidence by defendant February 19th, 1866.

COTTON.

May 30.	1 bale cotton	$46	00
May 30.	2 bales cotton	84	00
May 30.	1 bale osnaburgs	171	88
82 June 2.	2 bales cotton	110	00
June 2.	2 bales cotton	133	50
June 3.	½ bale cotton	17	25
June 3.	1 bale cotton	59	00
June 3.	2 bales cotton	113	00
June 5.	1 bales cotton	55	00
June 6.	1 bale cotton	60	00
June 6.	Lob marks	600	00
June 7.	2 bales cotton	150	00
June 7.	1 bale cotton	68	00
June 8.	1 bale cotton	81	00
June 7.	1 coil rope	24	50
June 8.	Bal. on 1 bale cotton	16	50
June 8.	2 bales cotton	139	20
June 8.	Repacking 8 bales cotton	24	00
June 9.	Repacking 14 bales cotton	42	00
June 10.	Repacking 3 bales cotton	9	00
June 12.	1 bale cotton	92	00
June 12.	Bal. due lob marks	810	00
June 13.	1 bale cotton	34	00
June 14.	2 bales cotton	173	44
June 14.	Commissions	15	00
June 14.	Weil & Moore's bagging and rope	138	44
June 14.	90 lbs. cotton	9	00
	Commission	2	25
June 16.	1 bale cotton	67	20
June 16.	On ac. 1 bale	12	00
June 16.	Bal. 1 bale	71	10
83 June 16.	412 lb. cotton	37	08
19.	2 bales cotton	123	75
19.	On acc't, 35 bales cotton	1,000	00
19.	On acc't, 42 ....do	400	00
19.	3 bales cotton	232	90
19.	1 bale cotton	78	20
19.	Am't 20 bales cotton	1,562	77
21.	Rebaleing	10	00
21.	On acc't, 35 b. c	1,883	05
21.	On acc't, 42 b. c	1,000	00
21.	3 bales cotton	187	50
24.	80 lb. cotton	8	00
24.	On acc't, 42 bales cotton	2,306	02
28.	2 bales cotton	196	90
30.	1 bale cotton	125	81

July	1.	1 bale cotton	$96 00
	1.	2 bales cotton	186 81
	1.	1 bale cotton	53 00
	3.	4 b. osnaburgs and 1 b. sheetings	700 37
	3.	Re-packing	2 00
	6.	1 bale cotton	118 00
	7.	1 bale cotton	76 15
	7.	130 lb. cotton	18 00
	8.	2 bales paper stock	38 75
	8.	Rebaleing	2 00
	10.	Watching cotton	2 00
		Wharfage on 167 bales, 15	25 05
		Drayage on 167 bales, 25	41 75
		Extra drayage to press, &c., and 30 b. c	7 50
			14,043 48

84 Aug. 8, '65.

Hearing and continuance.—Extract from the minutes of 19th February, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause came up in pursuance to the continuance of 16th instant; Geo. L. Bright, esq., for plaintiff, Whitaker & Fellows for E. W. Burbank, defendant.

And the jurors heretofore sworn in, to wit, Theodore Danziger, Salomon Bloom, T. W. Hall, M. Meilleur, and David Grant, having come into court, were called, and the following persons were sworn to complete the panel: C. C. Crawford, Henry Giefers, Nicholas Messner, S. H. Boyd, B. Bugatte, John Geo. Riedel, and Edward Bennett.

And the jury being now complete, the trial proceeded; and
85 after hearing pleadings and evidence, the cause is continued until to-morrow, 20th inst., at 11 a. m.

Note of evidence.—Filed February 20th, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

Defendant offered in evidence book U.

Plaintiff offered in evidence document V.

W. W. Bigelow, E. B. Bigelow, C. W. Wenck, A. F. Dunbar, E. S. Benedict, Mr. Forno, all sworn for plaintiff.

Book U, offered in evidence by defendant, is a little memorandum book containing some entries, and has been withdrawn.

Doc't U has been returned, and an extract therefrom accompanies this transcript, (page 181.)

Document V.—Offered in evidence by pl'ff, and filed February 20th, 1866.

86 NEW ORLEANS, *Jan.* 30, '65.

DEAR BROTHER: I sent you yesterday, by Adams' express, your letters, hats, bill heads, and etc., but forgot to send you any bills for st'r; will try to do it to-day. I could not find any more than 56 bales of cotton; if there was any more shipped it is lost. I neve yet have got any bill of lading of the cotten. If you have any that call for 57 bales of cotton you had better send it a long; if not you will neve see it; it was shipped in such away that no one appears to know much about it. Your hids, peper stock, &c., arrived at the new basin this morning, and will attend to some. Business is just slack for the last few days. Red river is played out completely; parties her lost largely up there. Cotton is worth 46 in New York. Nothing new here.

Yours,

ED.

You will please write and state what the price of those jack-knivs were, or the No. of them, that were not sent in Cha's E. Spencer bill. I never have been able to get anything for freight that
87 was lost on schooner Louisa Thompson, and Barns would not py it, and I cannot find or see the schooner.

Your

ED.

(This is a verbatim copy of the original.)

Hearing and continuance.—Extract from the minutes of 20th February, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause came up pursuant to continuance; Geo. L. Bright, esq., for plaintiff; Whitaker & Fellows for E. W. Burbank, defendant.

And the jurors sworn in having all made their appearance, the trial proceeded; and after hearing further evidence the cause is continued till to-morrow at 11 a. m.

88 *Opening and adjournment of court.—Extract from the minutes of 21st February, 1866.*

NEW ORLEANS, *Wednesday, February 21st*, 1866.

The court was opened by the marshal, and, on account of his honor's indisposition, adjourned till Friday, 23d instant, at 11 a. m., in obedience to instructions received, the business fixed for to-day being transferred to said 23d.

Note of evidence.—Filed February 23d, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

Mr. Moody sworn for plaintiff.
S. M. Burbank, Mr. Lesay, sworn for defendant.

Hearing and continuance.—Extract from the minutes of 23d February, 1866.

89 E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause was resumed before the court and jury; Geo. L. Bright, esq., for plaintiff; Whitaker & Fellows for E. W. Burbank, defendant.

And the jurors sworn in having all made their appearance, the trial proceeded; and after hearing further evidence the cause is continued until to-morrow at 11 a. m.

Note of evidence.—Filed February 24th, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

Thomas S. Burbank sworn for def'dt.
Defendant offered acc't sales, marked X, 1 and 2.

90 *Document X.—Filed in evidence by defendant February 24th, 1866.*

Account sales of 22 bales cotton shipped, per schooner De Soto, for New York, and sold for account of Mr. E. W. Burbank:

A	13 bales wh'g	7,216		
D	7 bales wh'g	3,253		
1		10,469,	46c	$4,815 74
B	2 bales wh'g	1,098,	44c	483 12
				$5,298 86

Charges:

Fr't primage, $193 66; marine ins., $600, 1¼, $75	$268 66
Expenses in N. Y., $15 40; wharfage, $2 10	17 50

Mending, $18; brokerage, ½, $26 49	$44 49	
U. S. tax, ⅛, $6 83; commission, 2½, $132 47	139 30	
		$469 95
Net proceeds		4,828 91

E and O E.
New Orleans, Oct. 18th, 1865.

GRIFFIN & PORCH.
For G. STROMENER.

E and F 400.

Account sales, marked 1.—*Filed in evidence by defendant February 24th,* 1866.

91 Account sales of 56 bales cotton, received per steamship Republic from New Orleans via New York, sold per order of Mess. Griffin & Porch, for account of E. W. Burbank, esq.:

1865.

July 14. By A. B. & S. cash, 10 days, [S] 16 bales, w'gh'g 7,863 lbs., *a* 53		$4,166 37
July 21. By D. S. & S. cash, 10 days, [S] 2 bales, w'gh'g 1,000 lbs., *a* 53		530 00
July 27. By M. L. cash, 10 days, [S] 32 bales, w'gh'g 14,176 lbs., *a* 45		6,378 90
Aug. 11. By am't check rec'd from ag'ts st'mship Republic for [S] 6 bales missing, 2,980 lbs., *a* 46		1,370 93
		12,446 20
Charges:		
Freight and primage for New Orleans	$584 14	
Marine ins. on $11,424, *a* 1 per cent. prem	114 24	
Freight for N. York on 50 bales, $89, expenses in N. Y., $34 80	123 81	
Drayage, labor, and m'd'g, $18, weighing, $8 40	26 40	
Storage and fire ins., $16 80, brokerage, ½ per cent., U. S tax, ⅛ per cent	94 59	
Commission, 2½ per cent.	311 15	
		1,254 33
Net proceeds, sales cash, Aug. 2d, 1865		11,191 87

E. E.
Philadelphia, Aug. 11th, 1865.
(Signed) H. SLOAN & SON.
E. F. 390.

Account sales, marked 2.—Filed in evidence by defendant February 24th, 1866.

92 Account sales of 99 bales cotton, received in New York per bark Mary Bentley, from Mobile, sold per order Mess. Griffin & Porch, for account of Mr. E. W. Burbank:

1865.

Aug. 19.	By E. & Co. cash, 10 days, 80 bales w'h'g 38,725 lbs., a 40 c.		$15,490 00
Aug. 24.	By E. & Co. cash, 10 days, 11 bales w'h'g 5,162 lbs., a 40c		2,064 80
Sept. 8.	By E. T. cash, 10 days, 12 bags pickings and strippings, 1,559 lbs., a 15c		233 85
Sept. 2.	By sales at auction, 7 bales repacked, 2,889 lbs., a 32	$927 68	
	3 bags (bale burnt) 549 lbs., a 7½	41 18	
		968 86	
	Less auctioneer's charges	36 75	
			932 11
			18,720 76

E. F. 409.

Charges:

Freight and primage from Mobile	$793 36	
Marine ins. on $18,810, *a* 1½ per cent. prem	282 15	
Drayage and labor in N. Y., $49 50, storage in N. Y., $50 50	100 00	
Insurance in N. Y., $30, brokerage in N. Y., $43 88	73 88	
Weighing, $25 25, stripping and m'd'g as per bill, $300 66	325 91	
Freight from N. York on 7 bales and 3 bags	9 00	
Storage, fire ins., and m'd'g on do. in Phila	4 25	
Commission, 2½ per cent	468 01	
		2,056 56
Net proceeds sales cash Sept'r 1st, 1865		16,664 20

E. E.
Philadelphia, September 22d, 1865.
(Signed) H. SLOAN & SON.

93 *Hearing and continuance.—Extract from the minutes of 24th February*, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause was resumed before the court and jury.

Geo. L. Bright, esq., for plaintiff; Whitaker and Fellows for E. W. Burbank, defendant.

And after hearing further evidence the cause is continued till Monday next, 26th inst., at 11 a. m.

Note of evidence.—Filed Febr'y 26, 1866.

E. B. BIGELOW *vs.* E. W. BURBANK. } No. 3,686.

Defendant offered doc't 3.

Plaintiff offered doc'ts 4, 5, 6, 7.

94 G. W. Porch, E. W. McDuff, E. W. Burbank, all sworn for defendant.

Document marked 3.—*Offered by defendant February* 26, 1866.

Received, Montgomery, Jan. 9th, 1865, of T. S. Burbank, two thousand dollars, to invest in cotton, and to hand him over the obligations from whom purchased.

$2,000.

(Signed) EDM'D HARRISON.

Document marked 4.—*Offered by plaintiff February* 26, 1866.

NEW ORLEANS, *June 13th*, '65.

DEAR BROTHER: Mr. Bigelow arrived yesterday morning with a letter from you, and contents have been noted. Shall ship your orders this evening. You give me one awful blow about shipping you such a lot of old stuff. I can only say I shipped you such as I had,

95 as I had no money to buy other goods with. You say Mr. Bigelow can buy or take a consignment of military clothing if he can get it. I do not think he could get it fo c'st, let alone consignment. When you wrote about that cotton cloth it was all on board the Shooting Star, and it has been just so with all your orders: they came too late. You write one thing one day, and the next day right the reverse, and the next day you will reverse it back again. What do you think I know what you mean? You don't seem to remember what you have written. I have very little old or new stock left in store. I sold the last bbl. of mess pork yesterday, only 4 tierces send; left no flour; some prime pork; received 16 bbls. of raw whiskey and 24 bbls. rectified from Cincin. a few days since. Have ordered 25 more of rectified and 25 of alcohol, which I shall use that 10,000 in Philadelphia, for I received a letter from J. de Hewes yesterday, saying he had sold coupons to the amount of 1,200 dollars, and placed to your cred.,

96 which I shall write him to-day, that I shall draw on him for that amount by next mail. I do not think I will get my brandy peaches off the steamer in time to ship to-day, but I will send them to-morrow. I have just bought the Lewis House for 10,500 dollars, ⅓ cash.

Yours, ED.

I was offered 1,000 dollars for my bargain in 15 minutes.

Document marked 5.—Offered by plaintiff February 26th, 1866, (written in pencil.)

NEW ORLEANS, *May* 27, 1865.

DEAR BROTHER: I enclosed a letter to you about an hour ago, saying I could not ship you the last two dray loads. But since then I have succeeded in getting them aboard the Shooting Star, with the balance, and you will receive the full amount on bills enclosed. Olmstead is going over, but he must not have anything to do with the concern; now mind what I tell you. You write me to put on a face, but mind yourself. I can say I have been doing it for several
97 days.

Yours,

ED.

Document marked 6.—Offered by plaintiff February 26, 1866.

NEW ORLEANS, *June 22d*, 1865.

DEAR BROTHER: I shipped your telegraph order with the order of the 13th, of which I wrote you yesterday, and as I was writing I received your letter and order of the 15. The order I will ship you as soon as I can get it together. The letter I answered to you yesterday, as to when you speak of Olmstead; the I closed as I wished to think of it. First, you know that before you left that permit was passed through the custom-house, and then that down on in the prov't marshal gen'l office, on acc't of Olmstead bad reputation. You then started for Mobile on Bigelow's permit. In your travels you saw Gen'l Canby, who told you there was no objection to pass good that had A. J. Smith's name attached, or so you wrote
98 me; and that you thought S. N. B. could pass that permit in your name. So, on receipt of your advice, I sent S. N. to try to pass it, and he succeeded, and at the same time sent the other part of the permit to the custom-house; what part it was I do not know, but Sam. Bowman can tell you, I suppose, as he done all the business, and should know more than I do about it. But, however, I sent it, and that passed also. But about this time came W. W. Bigelow's permit and others, one after the other. But you see I had these passed, which was already more in amount than I could fill. Bigelow's, W. W. Putnam's, and all others now lay in my drawer, as I had, when they were received, already more than I could use and this is the way it came about. But in the meantime, or after I had passed these permits, Olmstead came in, and I sold him. I thought I should try to pass that permit. He, Olmstead, advised me not to do it, as it would do me no good and might injure me or keep me from getting anything up to Montgomery; but to do just as
99 I liked, as he, Olmstead, did not care anything about it, as he (") was going to Vicksburg, and if I thought I could make anything out of it to go ahead. These are all the circumstances. Sam. Bowman, S. N. can tell you the same.

Document marked 7.—Offered by plaintiff, February 26th, 1866.

NEW ORLEANS, *May* 26,

DEAR BROTHER: Mr. Porch goes over this evening, and I hasten to write you. I send by Mr. Porch, 18,300 dollars for you,—300 in postage currency. I have got part of the Olmstead permit through, and expect to get it down to Lakeport in time to leave to-morrow evening on the Lotam. I have also got the rest of the Olmstead permit on the way, and should it pass, I will ship as soon as possible. Biglow permit has also passed the custom-house, and if it goes through I will ship as soon as possible. Mr. Porch's permit is not out yet, but think he will get it in time to ship to-morrow evening; the good are all put
100 up. I send by Mr. Porch the shoulder-strap, cost $9, charge $10 for them. I cannot find out the price of you by Mr. Griffin, as he is not posted. We have so much to do I don't know what to do, I have to go to court every day, but should we get all these permits off, I hope to keep you posted. I understand the permit system will be done away with this week, and if it should, it will be a great relief. It is now published that Kirby Smith has surrendered, which I believe is true. If so, that is the end of the war. Goods are getting very scarce in New Orleans, that is, such good as are worth over there, and prices have advanced very much.

I will enclose you bills of prices of what we ship by mail to-morrow. We have an account of a terrible explosion in Mobile, and a great loss of life; but trust you are not there. In haste, as I have to go to court.

Yours,
(Signed) ED.

101 *Hearing and continuance.—Extract from the minutes of 26th February*, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause was resumed before the court and jury. Geo. L. Bright, esq., for plaintiff; Whitaker and Fellows for E. W. Burbank, defendant.

And after hearing further evidence the cause is continued until to-morrow at 11 a. m.

Note of evidence.—Filed February 27th, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

Griffin and G. W. Banker, sworn for defendant; Mr. Graham
102 sworn for plaintiff. Books numbered 8, 9 and 10, are in evidence.

Extracts from books, marked Nos. 8, 9 and 10, will be found transcribed respectively at pages 140, 148, and 179.

Bill of exception of E. W. Burbank, defendant.—Filed Feb'ry 27th, 1866.

U. S. circuit court, sixth circuit and eastern district of Louisiana.

E. B. BIGELOW.
vs.
E. W. & T. S. BURBANK. } No. 3,686.

Be it remembered, that on the trial of this cause, on this 27th February, 1866, after evidence adduced, and argumenl of counsel and as the hon. judge of said court was about to charge the jury, the counsel of E. W. Burbank, defendant, asked and requested the court to charge the jury that—

If the jury is satisfied that E. W. Burbank furnished to his brother, T. S. Burbank, or to Burbank & Bigelow, over $50,000 in merchandise, to be sold and the proceeds thereof to be invested in con-
103 ton, &c., to the amount of said advances, for the account of said E. W. Burbank; and that the said proceeds were so invested; and that the said T. S. Burbank, or the said Burbank & Bigelow has returned to the said E. W. Burbank the full amount that was to be so invested, with the exception of from three to four thousand dollars now due him on said account, that there must be a verdict for the defendant.

Or in the alternative, if the jury is satisfied that the amount of cotton and merchandise claimed in this suit was forwarded to E. W. Burbank for sale, for account of Burbank & Bigelow, and that the same sold for $29,643 33, that the said E. W. Burbank is entitled to credit for the original price of said merchandise and cotton, already credited by him to Burbank & Bigelow, to wit, $14,043 18; as also for all costs and charges paid by him on said cotton and merchandise, amounting to $5,319 45; and that there be a verdict in favor
104 of the said plaintiff only for his proportion of $10,280 70; the difference between the total of investment credited and costs and charges, and the total of sales—that is to say, in the proportion which plaintiff's share, proven to have been $2,000, of the capital stock in trade of Burbank & Bigelow bore to the total amount of said capital.

Which charge the judge refused to make, to which ruling counsel of said E. W. Burbank, before the jury retired to consult on their verdict, excepted, and tenders this his bill of exceptions, through his counsel, in order that the whole may appear of record.

(Signed) E. H. DURELL, *Judge.*

Hearing, submission, and verdict against Edw. W. Burbank, defendant.

Circuit court of the United States, sixth circuit and eastern district of Louisiana, November term, 1865.

105 NEW ORLEANS, *Tuesday, February 27th*, 1866.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, dist. judge.

EDMOND B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

This cause came up again before the court and jury. Geo. L. Bright, esq., for plaintiff; Whitaker and Fellows for E. W. Burbank, defendant.

When, after hearing further evidence and argument of counsel, the court appointed Theodore Danziger foreman of the jury, and they retired to consider on their verdict, and after due deliberation, they returned into court and delivered the following verdict, to wit:

NEW ORLEANS, *February 27th*, 1866.

We, the jury, find for the plaintiff, in the sum of thirteen thousand eight hundred and sixty-four dollars 34 cents, say $13,864 $\frac{34}{100}$.

(Signed) THEODORE DANZIGER, *Foreman.*

106 Whereupon it is ordered that the verdict be recorded. And the court being satisfied with the verdict of the jury, does, by reason thereof, order, adjudge, and decree that the plaintiff, Edmond B. Bigelow, do recover of the defendant, Edward W. Burbank, the sum of thirteen thousand eight hundred and sixty-four dollars and thirty-four cents and costs of suit.

Judgment rendered February 27th, 1866.

Judgment signed March 19th, 1866.

(Signed) E. H. DURELL, *Judge.*

Rule for new trial.—Extract from the minutes of 2d March, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

On motion of J. S. Whitaker, of counsel for E. W. Burbank, and on suggesting to the court that the verdict of the jury in this case,

107 and the judgment based thereon, are contrary to the law and evidence, it is therefore ordered by the court, that plaintiff show cause, on the 9th day of March instant, why said verdict should not be set aside and a new trial ordered in this case on the grounds now filed.

Grounds.—Filed March 2d, 1866.

First. That it is clearly shown by the books of E. W. Burbank, defendant, called for by plaintiff and admitted in evidence in this cause, as also by evidence of defendant's book-keeper, and by that of other witnesses, as also by the admissions of plaintiff, that an amount exceeding $53,000 00 in merchandise, &c., had been sold and delivered to Burbank and Bigelow by defendant, the price of which has not been discharged to an amount exceeding $3,000 00, and furthermore in paying for said merchandise that the property in controversy in this suit to the amount of its cost price, say
108 $14,043 18, and sundry other items to the full amount of the debit of Burbank and Bigelow to defendant, was credited and allowed, less the sum of $3,035 76, leaving an actual indebtedness to that extent by said firm to said defendant.

Second. That it was also clearly shown by the evidence adduced before the court and to the jury, by account sales on file and by other proofs substantiating the same, that the cotton in controversy was actually sold for $29,643 33, instead of $41,350 00 claimed by plaintiff, which after deduction of costs and charges paid by defendant, actually netted $24,374 33; and it was clearly proven that deducting from said net proceeds the cost of said cotton already credited by defendant to said firm, to wit: $13,170 91, the net profit on the purchase and sale of this cotton amounted to $11,203 42; and that the osnaburgs and sheeting in controversy in this suit have not yet been sold by defendant with the exception of one bale of osnaburgs, and that the costs and charges thereon, amounting to $50 45, have been paid by defendant, and that it also appears by the evidence
109 that defendant has given credit to said firm for the cost price thereof, to wit, $872 27.

Third. That the verdict of the jury in this case for $13,864 34 is evidently greatly more than the entire profits arising from the sale of the property in controversy, the utmost extent of plaintiff's asserted claim being one half interest; and that there is no basis in fact, under the evidence adduced, for the figures of the verdict.

Fourth. That the evidence adduced by the defendant fully, and without contradictory proof on the part of the plaintiff, shows the nature and terms of the contract of partnership between T. S. Burbank and E. B. Bigelow, and the character of the connection between Burbank and Bigelow and defendant, that said defendant was to supply them with goods and merchandise, and that they were to pay him therefor in cotton, &c., to be remitted to him for his account at the cost price thereof; and it was further proven that the property in controversy was forwarded in accordance with the
110 terms of said agreement, and that said firm received due credit for the total cost of the said property on the books of defendant.

Fifth. That the jury in this case has evidently failed to credit the defendant for the cost price of the property in controversy, credited by him to Burbank and Bigelow, as shown by uncontradicted evi-

dence; and that the jury has failed to credit him with the costs and charges proved to have been paid by him on the property in controversy; and that the jury has disregarded the evident character of the contract by which the supplies were furnished to Burbank and Bigelow by defendant, and the rules for the interpretation of like contracts.

Sixth. That the verdict rendered is contrary to the pleadings, and inconsistent therewith, contrary to the evidence, is unjust, inequitable, and the result of caprice, and should be set aside.

Marshal's return on foregoing rule and grounds.

111 Received March 3d, 1866, and the same day of same month and year served a copy of the within motion and grounds on E. B. Bigelow, the plaintiff herein, by leaving said document in the hands of George L. Bright, esq., attorney for said plaintiff, at the office of said attorney, near the corner of Bank place, on Natchez street in this city.

(Signed) M. EGAN,
D'y U. S. Marshal.

New Orleans, March 3d, 1866.

Hearing and submission of rule for new trial.—Extract from the minutes of 9th March, 1866.

E. B. BIGELOW,
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

The rule for a new trial taken by the defendant, E. W. Burbank, came up; J. S. Whitaker, esq., for plaintiff in rule; George L. Bright, for defendant in rule.

112 And after hearing argument the court took time to advise.

Order refusing new trial.—Extract from the minutes of 17th March, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK and T. S. BURBANK. } No. 3,686.

For reasons orally assigned by the court, ordered that the application herein made for a new trial by the defendant, E. W. Burbank, be dismissed with costs.

Notice of seizure.—Filed March 20, 1866.

NEW ORLEANS, *March* 20, 1866.

STATE OF LOUISIANA, SHERIFF'S OFFICE,
Parish of Orleans, in the 3d District Court of New Orleans:

No. 21,108.

113 E. W. BURBANK
vs.
E. B. BIGELOW and T. S. BURBANK.

To C. Claiborne:

Please to take notice, that by virtue of a writ of attachment issued

in the above-mentioned suit, I seize, in your hands, all the goods, chattels, lands, tenements, rights and credits, moneys, effects, bills of exchange, promissory notes, or property of any kind which you may now or hereafter have in your possession or under your control belonging to the defendant, E. B. Bigelow and T. S. Burbank, which you will hand over to me.

(Signed) PAUL T. ABADIE, *D'y Sheriff.*

Petition for writ of error.—Filed March 24, 1866.

EDMOND B. BIGELOW
vs.
E. W. BURBANK and THOS. S. BURBANK. } No. 3,686.

114 United States circuit court, sixth circuit, eastern district of Louisiana.

And now Edward W. Burbank, defendant in the above entitled and numbered cause, respectfully represents that he is aggrieved by the final judgment rendered against him and in favor of the plaintiff, Edmond B. Bigelow, on the 27th February, 1866, and signed on the 19th March, 1866, and that he is desirous to take a writ of error to the Supreme Court of the United States to have the same revised by that tribunal.

Wherefore he prays that a writ of error be allowed him to carry up the said judgment before the Supreme Court and conditioned as the law requires, and returnable to the next term of the Supreme Court of the United States, and that the same operate as a supersedeas upon his giving bond in such an amount as the court may direct and order.

(Signed) J. S. WHITAKER, *of Counsel.*

115 *Order granting writ of error.*

Let a writ of error be allowed in this case to operate as a supersedeas as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the defendant giving bond in the sum of twenty-two thousand dollars, with good and solvent security, conditioned as the law directs.

March 24th, 1866.

(Signed) E. H. DURELL, *Judge.*

Bond for writ of error.—Filed March 26th, 1866.

Know all men by these presents, that we, Edward W. Burbank, as principal, and E. H. Burbank, Griffin & Porch, Russell & Hall, Edward A. Yorke, and C. A. Weed as sureties, are held and firmly bound unto Edmond B. Bigelow in the full and just sum of twenty-two thousand dollars, to be paid to the said Edmond B. Bigelow, his certain attorney, executors, administrators, or assigns, to which
116 payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by

these presents. Sealed with our seals, and dated this twenty-fourth day of March, in the year of our Lord one thousand eight hundred and sixty-six.

Whereas, lately at a circuit court of the United States, sixth judicial circuit, holding sessions in and for the eastern district of Louisiana, in a suit depending in said circuit court, wherein Edmond B. Bigelow is plaintiff, and Edward W. Burbank is defendant, judgment was rendered against the said Edward W. Burbank, defendant, and the said Edward W. Burbank having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to said Edmond B. Bigelow, citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington the first Monday of December next:

Now the condition of the above obligation is such, that if
117 the said Edward W. Burbank shall prosecute his writ to effect and answer such judgment, and all damages and costs, if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

(Signed)	E. W. BURBANK.	[L. S.]
(Signed)	GRIFFIN & PORCH.	[L. S.]
(Signed)	RUSSELL & HALL.	[L. S.]
(Signed)	EDW. A. YORKE & CO.	[L. S.]
(Signed)	C. A. WEED.	[L. S.]

Signed, sealed and delivered in the presence of—
Witness:

(Signed)	G. STROMEYER.
(Signed)	JOHN S. BENT.
(Signed)	J. HOWCATT.
(Signed)	R. H. HALL.

25 ct. int. rev. stamp, cancelled.

Rule to set aside appeal.—Extract from the minutes of 2d April, 1866.

E. B. BIGELOW *vs.* E. W. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, esq., of counsel for plaintiff, it is ordered by the court that the defendant, E. W. Burbank, show
118 cause on Saturday, the 7th inst., at 11 a. m., why the order herein made, granting him an appeal, should not be dissolved, and why execution should not be issued in favor of the plaintiff on the grounds now filed.

Grounds filed:

1. The defendant, E. W. Burbank, did not furnish within the time fixed by law an appeal bond, conditioned as the law requires. The paper filed purporting to be a bond was, at the time it was filed and

for several days thereafter, made payable to Edward W. Burbank, and not to your motioner, and the said pretended bond was altered by the deputy clerk of this court after it had been filed, by drawing a line across the name of Edmond W. Burbank and adding the name of your motioner, all of which was done without the consent of any party to the pretended bond, and especially without the consent of your motioner.

2. The defendant, E. W. Burbank, cannot appeal because
119 he has acquiesced to the judgment herein rendered, and he has executed it voluntarily in this. He instituted suit against your motioner in the 3d district court of New Orleans, issued a writ of attachment, and attached the judgment rendered by this court against himself, and he thereby confessed its correctness.

3. The sureties on the bond are not good and sufficient, and an individual member of a firm cannot use the name of the firm as surety on a judicial bond.

4. There is no stamp, as required by law, on the bond, and the insufficient stamp upon it is not cancelled by any party to the bond.

Marshal's return on foregoing rule and grounds.

Received April 3d, 1866, and on the 4th day of same month and year served a copy of the within rule and grounds on J. S. Whitaker, esq., attorney for the defendant in the within named suit, by leaving said document at his office, 27 Camp street, in this city, in the hands
of Wm. R. Whitaker, esq., attorney-at-law and asssistant of
120 the said J. S. Whitaker, esq.

New Orleans, April 4th, 1866.

M. EGAN,
D'y U. S. Marshal.

Motion and order for subpœna duces tecum.—Extract from the minutes of 6th April, 1866.

E. B. BIGELOW
v.
E. W. BURBANK. } No. 3,686.

On motion of Geo. L. Bright, atty. for the plaintiff, it is ordered that Charles Ducros, deputy sheriff of the parish of Orleans, produce in court, on Saturday, April 7, 1866, at 11 a. m.—

1st. The writ of attachment in his possession issued in the suit of E. W. Burbank *vs.* E. B. Bigelow, and the copies of all notices of attachment annexed thereto.

2d. And also the written instructions of the plaintiff for making the attachment.

121 *Subpœna duces tecum on Chs. Ducros, duputy sh'ff.—Issued 6th April*, 1866.

Circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

To Charles Ducros, deputy sheriff for the parish of Orleans:

You are hereby commanded to be and appear, and to bring with you,

1st. The writ of attachment in your possession, in the suit of E. W. Burbank *vs.* E. B. Bigelow, and the copies of all notices of attachment annexed thereto.

2d. And also the written instructions of the plaintiff for making the attachments, before the circuit court of the United States for the 6th circuit, in and for the said district, to be holden at the city of New Orleans on the 7th day of April, 1866, then and there to be used in evidence in a certain cause now depending therein, and to be tried between E. B. Bigelow and E. W. Burbank, at 11 o'clock a. m., and herein fail not under the penalty of two hundred
122 and fifty dollars.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 6th day of April, in the year of our Lord one thousand eight hundred and sixty-six, and in the 90th year of American independence.

(Signed) F. B. VINOT, *D'y Cl'k.* [L. S.]

Marshal's return on foregoing subpœna duces tecum.

Received April 6th, 1866, and on the same day, month, and year served a copy of the within subpœna duces tecum on Chs. Ducros, d'y sheriff of parish of Orleans, named herein, by leaving said document at the office of the sheriff of the parish of Orleans, in the hands of E. S. Wurtzberger, also a dep'y sheriff of the same parish, who promised to have the demand of this subp'a complied with.

New Orleans, April 7th, 1866.

(Signed) M. EGAN,
D'y U. S. Marshal.

123 *Note of evidence.—Filed April 7th*, 1866.

E. B. BIGELOW *vs.* E. W. BURBANK. } No. 3,686.

Pl'ff Bigelow offered in evidence the writ of attachment issued from the 3d dist. court of New Orleans, at the suit of E. W. Burbank *vs.* E. B. Bigelow & T. S. Burbank, No. 21,108 of the docket of said court. Also the notices of attachment to E. B. Bigelow, to C. Bullitt, marshal, and Chs. Claiborne, clerk, and sh'ff's return; the instructions given by E. W. Burbank's counsel to the sh'ff. Also the petition and supp'l petition filed in said suit.

The bond and the whole record is considered in evidence on the trial of the rule.

Upon pl'ff's counsel's application the court directed that the clerk, in making out the transcript of the appeal, give a fac simile of the bond.

124 The court gave the counsel for E. W. Burbank to understand that the attachment issued from the State court against the judgment in this case must be raised, to which ruling said counsel acquiesced and declared his readiness to comply.

Deposition of F. B. Vinot, taken in open court, and filed April 7th, 1866.

E. B. BIGELOW
vs.
E. W. BURBANK. } No. 3,686.

F. B. Vinot, being duly sworn in open court, says I am a deputy clerk of this court. The appeal bond, at the time of its filing was not in its present condition.

The heading of the bond was then as it now is, and reads thus:

Know all men by these presents, that we, Edward W. Burbank, as principal, and E. H. Burbank, Griffin & Porch, Russell & Hall, Edward A. Yorke & Co., and C. A. Weed, as sureties, are
125 held and firmly bound unto Edmond B. Bigelow in the full and just sum of twenty-two thousand dollars, &c., &c.

Cross-ex. by def't:

Two days after the filing of the bond, I, as deputy clerk, erased, in the seventh line of the bond, the words, "Edward W. Burbank," and inserted the words Edmond B. Bigelow. My attention had been called to the bond by the clerk of Mr. Bright, attorney for the pl'ff, and I stated to that clerk that it was a clerical error of mine, and I made the correction in his presence. The bond had been filled out by me.

Re-examined by pl'ff:

Mr. Bright's clerk did not object to my correcting the error.

(Signed) F. B. VINOT.

Writ of attachment.—Filed in evidence for pl'ff April 7th, 1866.

THE STATE OF LOUISIANA, *Third District Court of New Orleans:*

The State of Louisiana to the sheriff of the parish of New Orleans, greeting:

126 Whereas due proof has been made before the third district court of New Orleans, by Edward W. Burbank, that E. B. Bigelow & T. S. Burbank are indebted to him in the sum of fifteen thousand dollars, and that the said E. B. Bigelow reside permanently out of the State of Louisiana: Now, therefore, you are commanded, in the name of the State of Louisiana, and of the third district court

of New Orleans, to seize and attach, according to law, and take into your possession the goods and chattels, lands and tenements, rights and moneys, effects and credits of the said E. B. Bigelow, if any you find in said parish, to the amount of what will suffice to discharge the said debt and costs of suit; and that you give notice of this proceeding by leaving a copy thereof at the last place of abode of the said defendant, if in said parish, and causing a copy thereof to be affixed at the door of parish church of said parish; and make re-
127 turn of this writ, and indorse thereon the manner in which you have executed it, before our court according to law.

(Signed) J. O. CHALON, *D'y Clerk.*

Clerk's office, March 20th, 1866.

U. S. circuit court, eastern district of Louisiana.

CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original offered in evidence this 7th April, 1866.

N. O., April 7th, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.* [SEAL.]

Notice to E. B. Bigelow.—Filed in evidence for pl'ff April 7th, 1866.

NEW ORLEANS, *March 20th*, 1866.

STATE OF LOUISIANA, *Sheriff's Office, Parish of Orleans:*

In the 3d district court of New Orleans.

E. W. BURBANK
vs.
E. B. BIGELOW & T. S. BURBANK. } No. 21,108.

To E. B. Bigelow:

128 Please to take notice that, by virtue of a writ of attachment, issued in the above-mentioned suit, I seize, in your hands, all the goods, chattels, lands, tenements, rights and credits, moneys, effects, bills of exchange, promissory notes or property of any kind, which you may now or hereafter have in your possession or under your control, belonging to the defendants E. B. Bigelow & T. S. Burbank, which you will hand over to me.

(Signed) PAUL T. ABADIE, *D'y Sheriff.*

Sheriff's return.

And on the 20th March, 1866, served copy of the within notice of attachment on Mr. E. B. Bigelow, garnishee herein, at No. 34 Tchoupitoulas, personally at 2½ o'clock.

(Signed) CHS. DUCROS, *D'y Sheriff.*

U. S. circuit court, eastern dist. of Louisiana.

CLERK'S OFFICE.

129 I certify the foregoing to be a true copy of the original offered in evidence by pl'ff this 7th April, 1866.

(Signed) F. B. VINOT, *D'y Clk.*

Notice to C. Bullitt, U. S. marshal.—Filed in evidence for pl'ff April 7th, 1866.

SHERIFF'S OFFICE,
New Orleans, March 20th, 1866.

STATE OF LOUISIANA, *Parish of Orleans:*

In the 3d district court of New Orleans.

E. W. BURBANK
vs.
E. B. BIGELOW and T. S. BURBANK. } No. 21,108.

To C. Bullitt, garnishee:

(Received March 20. C. B.)

Please to take notice, that by virtue of a writ of attachment issued in the above-mentioned suit, I seize in your hands all the goods, chattels, lands, tenements, rights and credits, moneys, effects, bill of exchange, promissory notes, or property of any kind which
130 you may now or hereafter have in your possession or under your control belonging to the defendants, E. B. Bigelow & T. S. Burbank, which you will hand over to me.

(Signed) PAUL T. ABADIE,
D'y Sheriff.

Sheriff's return.

And on the 20th day of March, 1866, served copy of the within notice on Mr. C. Bullitt, personally, herein at 12½ o'clock.

(Signed) CHS. DUCROS,
D'y Sheriff.

U. S. circuit court, eastern dist. of Louisiana.

CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original offered in evidence by pl'ff on the 7th April, 1866.

April 7th, 1866.

(Signed) F. B. VINOT, *Dy. Clerk.*

Notice to C. Claiborne.—Filed in evidence for plaintiff April 7th, 1866.

In the 3d district court of New Orleans.

SHERIFF'S OFFICE,
131 *New Orleans, March 20th*, 1866.

STATE OF LOUISIANA, *Parish of Orleans:*

E. W. BURBANK
vs.
E. B. BIGELOW and T. S. BURBANK. } No. 21,108.

To C. Claiborne, garnishee:

Please to take notice, that by virtue of a writ of attachment issued in the above-mentioned suit, I seize in your hands all the goods, chattels, lands, tenements, rights and credits, moneys, effects, bills of exchange, promissory notes, or property of any kind which you may now or hereafter have in your possession or under your control belonging to the defendants, E. B. Bigelow & T. S. Burbank, which you will hand over to me.

(Signed) PAUL T. ABADIE,
D'y Sheriff.

Sheriff's return.

And on the 20th day of March, 1866, served a copy of the
132 within notice on Mr. C. C. Claiborne, garnishee herein, personally, at 12½ o'clock.

(Signed) CH'S DUCROS,
D'y Sheriff.

U. S. circuit court, eastern dist. of Louisiana.

CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original offered in evidence by pl'ff April 7th, 1866.

N. O., April 7th, 1866.

(Signed) F. B. VINOT, *D'y Clerk.*

Instructions of pl'ff's counsel to sheriff of parish of Orleans.—Filed in evidence for pl'ff April 7th, 1866.

3d district court.

E. W. BURBANK
vs.
E. B. BIGELOW and T. S. BURBANK. }

The sheriff of the parish of Orleans will please attach in the hands of E. B. Bigelow, 34 Tchoupitoulas street, and the hands of
133 United States marshal, Mr. C. Bullitt, and in the hands of C. Claiborne, clerk of the circuit court of the United States for the eastern district of Louisiana, a certain judgment in case E. B.

Bigelow *vs.* E. W. Burbank & T. S. Burbank, No. 3,686 on the docket of said court, and amounting to the sum of $13,864 34, taking note of the hour of said seizures.

New Orleans, March 20th, 1866.

(Signed) J. S. WHITAKER,
For Plaintiff.

CHAS. A. BIENVENU, Esq., *Sheriff.*

P. S.—This matter requires despatch.

J. S. W.

U. S. circuit court, eastern district of Louisiana.

CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original offered in evidence by pl'ff on this 7th inst.

New Orleans, April 7th, 1866.

(Signed) F. B. VINOT, *D'y Clerk.*

134 *Petition offered in evidence by plaintiff April* 7th, 1866.

EDWARD W. BURBANK
vs.
THOS. S. BURBANK and EDMOND B. BIGELOW, late Burbank & Bigelow. } No. 21,108.

To the honorable the third district court of New Orleans:

The petition of Edward W. Burbank, residing in the city of New Orleans, respectfully shows:

That Thomas S. Burbank and Edmond B. Bigelow, (late a commercial firm, and doing business as such under the name and style of Burbank & Bigelow, at Montgomery, Alabama, both of the said parties being now within the jurisdiction of the court,) are indebted to petitioner in the sum of sixty thousand four hundred twenty-nine 27-100 dollars, with interest from the first day of February, 1866, for this, to wit, that at sundry times, from the 16th day of May, 1865,
135 up to the 1st day of February, 1866, petitioner has sold merchandise and advanced money to and paid sundry bills and accounts for the said firm of Burbank & Bigelow to the full amount hereinbefore stated.

Petitioner annexes hereto statement of merchandise, sold as above, and of said advances, and make the same part of this petition.

He further shows that the said goods and merchandise were fully worth the sums charged in said statement.

Finally he alleges amicable demand and refusal to pay on the part of defendants.

The premises considered, petitioner prays that Edmond B. Bigelow and Thomas S. Burbank be duly cited, and that after due proceedings had, he have judgment against the said defendants, individually and in solido, for the sum of sixty-thousand four hundred twenty-

nine 27-100 dollars, with interest from the first day of February, 1866, costs and all general relief.

(Signed) J. S. WHITAKER, *of Counsel.*

A true copy.
136 March 17th, 1866.
(Signed) J. O. CHALON, *D'y Clerk.*

Amended and supplemental petition.—Offered by pl'ff April 7th, 1866.

Third district court of New Orleans.

E. W. BURBANK
vs.
E. B. BIGELOW and T. S. BURBANK.

To the honorable the third district court of New Orleans:

The amended and supplemental petition of E. W. Burbank respectfully shows:

That in suing for the sum of sixty thousand four hundred and twenty-nine 27-100 dollars, as set forth in original petition filed in the above-entitled suit, he has omitted to allow certain credits to which defendants are entitled, leaving, however, still due to petitioner an aggregate sum, errors and omission excepted, of
137 twenty-two dollars five hundred and eighty-five dollars and thirty-nine cents, as set forth more fully in a statement accompanying this petition and made a part thereof.

Petitioner remits said credits, and further shows that E. B. Bigelow, one of said def'ts, is a resident of the State of Wisconsin, and is on the eve of leaving, permanently, the State of Louisiana, and that process of attachment is necessary.

Wherefore he prays leave to file this his amended and supplemental petition that attachment process issue, that the said def'ts be duly cited, and after due proceedings had, that he have judgment against said def'ts, individually and in solido, in the sum of fifteen thousand dollars, with interest from judicial demand, privilege upon the property attached, and costs of suit and all general relief.

(Signed) J. S. WHITAKER,
Of Counsel.

Personally Edward W. Burbank, who, being duly sworn, deposes and says, that E. B. Bigelow and T. S. Burbank are indebted to your affiant in the sum of fifteen thousand dollars, and that
138 E. B. Bigelow resides out of the State of La.

(Signed) E. W. BURBANK.

Sworn to and subscribed before me, this 20th of March, 1866.

(Signed) SAM'L MYERS,
2d Justice of the Peace, Parish of Orleans.

Let this supplemental petition be filed as prayed for and according to law, and let a writ of attachment issue herein, as prayed for and

according to law, upon plaintiff giving bond, with good and solvent surety, in the sum of twenty-two thousand five hundred dollars, conditioned as the law directs.

New Orleans, March 20th, 1866.

(Signed) E. T. FELLOWS, *Judge.*

A true copy.

Clerk's office, March 20th, 1866.

(Signed) J. O. CHALON, *D'y Cl'k.*

Order.—Rule discharged with costs.—Extract from the minutes of 7th April, 1866.

139 E. B. BIGELOW vs. E. W. BURBANK. } No. 3,686.

The rule taken by plaintiff on 2d instant came up; G. L. Bright, esq., for plaintiff in rule; J. S. Whitaker, esq., for defendant in rule. When, after hearing the evidence and argument, for reasons orally assigned, it is ordered that the rule be dismissed with costs.

140 *Extracts from book marked No.* 8.—*Filed in evidence February 27th,* 1866.

Page 46.

June 19th.—E. W. Burbank, Cr.

By bill of m'd'se of	May 16th		$4,867 62
Do.	do.		112 50
Do.	do.	27th	7,081 87
Do.	do.	27th	2,275 52
Do.	do.	June 3d	6,763 61

E.E.

E. W. Burbank, Cr.

By m'd'se bill of June 10, '65 ..... $625 78

E. E.

Page 102.

July 19th, 1865.—E. W. Burbank, Cr.

By m'd'se:

Bill of	June 10th		$170 00
Do.	10th		625 78
Do.	12th		960 40
Do.	14th		52 25
Do.	17th		268 50
Do.	19th		2,142 55
Do.	20th		3,140 61
Do.	24th		250 25
Do.	26th		1,514 00
Do.	29th		21 00

E.E.

141 By m'd'se:

Bill of July 5th	$3,124 09
Do. 12th	3,898 74

E.E.

Page 113.

July 24th, 1865.—E. W. Burbank, Cr.

By m'd'se:

June 3d, am't G. Poco bill	115 23
" 24th	710 75
" 28th	60 78
" 28th	160 25
E.E.	1,047 01

Page 118.

July 27th.—E. W. Burbank, Cr.

By mdse:

Amt. bill 3 cases of medicines for E. M. R	$113 35
Amt. bill July 13th	139 70
	253 05

E. W. Burbank, Cr.

By mdse: Bill of June 3d	$1,005 01

Page 135.

Aug. 8th.—E. W. Burbank.

To invoice of cotton as per statement	$14,043 48

142 Page 136.

Aug. 9th.—E. W. Burbank, Cr.

By mdse., invoice Aug. 3d	$969 34

Page 159.

Aug. 25th.—E. W. Burbank, Cr.

By mdse., T. K. W., amt. bill of July 25th, '65	$824 63
B. & B., amt. bill of July 25th, '65	850 88
	1,676 51

Bagging and rope:

Amt. bill of Aug, 5, '65, crockery	$102 00

Page 166.

Sept. 1st, 1865.—E. W. Burbank, Cr.

By mdse. Amt. bill groceries Aug. 14, '66 ..... $2,166 35

Page 169.

Sept. 4th, 1865.—E. W. Burbank, Cr.

By mdse. Amt. bill mdse. Aug. 22, '65 ..... $1,479 02

Page 174.

Sept. 7th.—E. W. Burbank.

By mdse. Amt. bill Aug. 25, '65 ..... $356 25

143 Page 186.

Sept. 18th.—E. W. Burbank, Cr.

By mdse. Bill Sep. 8, '65 ..... $580 50

Page 188.

Sept. 20th, 1865.—E. W. Burbank, Cr.

By mdse. Bill mdse. June 21, '65 ..... $1,426 62

E. W. Burbank, Dr.

To mdse. Bill credited twice $625 78

E. W. Burbank, Dr.

Error on bill Aug. 25, &c $6 25

E. W. Burbank, Cr.

By mdse. Sep. 12th $85 35

Page 191.

Sept. 22d.—E. W. Burbank, Cr.

By mdse. Amt. bill of Aug. 15th, 1865 ..... $297 50
Com. on 297 50, at 5 per cent 14 87

312 37

Page 199.

Sept. 28th.—E. W. Burbank, Cr.

By mdse. Amt. bill Aug. 28th, '65 ..... $388 50

144 Page 214.

Goods ret'd to E. W. Burbank, for Chas. E. Spencer:

No. box.		
No. 1.	3 doz. perpetual diary, No. 4, 3 50	$10 50
	2 doz. perpetual diary, No. 5, 3	6 00
	1 doz. perpetual diary, No. 10	7 50
	1 doz. perpetual diary, No. 17, 9 00	9 00
	½ doz. perpetual diary, No. 9, 7 00	3 50
	4 doz. rosewood p'k't inks, 2 25	9 00
	4 doz. cocoa p'k't inks, No. 3, 2 75	11 00
	½ doz. portfolios, No. 50, 4 50	2 25
	½ doz. portfolios, No. 51, 3 50	1 75
	200 paper collars, No. 14, 2	4 00
		64 50

Page 216.

Goods ret'd to E. W. Burbank:

2 5-12 doz. coffee guieyes, 9 00	21 75
2⅔ doz. coffee guieyes, 7 50	20 00
2½ doz. coffee guieyes, 6 50	15 25
1 11-22 doz. coffee guieyes, 4 50	8 62
11-12 doz. cullenders, 6 50	6 96
½ doz. strainers, 4 50	2 25
10-12 doz. pie pans, 4 50	3 75
10 5-12 doz. yeast powders	
1 bbl. yeast powders, 2½ gro	

145 Page 284.

Cotton.

Mark.	Articles.	Name.	Date of purchase.	Where raised.
A 1	1 B|C 480	M. W. Street	June 16	Butler county.
A 2	1 do. 554	J. N. Roberts	do	Pike county.
A 3	1 do		do	
A 4	1 do		do	
[A] FL	1 do			
1 & 2 FL	2 do. 550 575 1,125	S. M. Harden	June 19	Coffee county.
3 & 4 FL	2 440 492 932	Wm. Johnson	do	Lowndes.
A 5	490 430 510			
6 & 7	3 do	W. R. Vaughan	do	Wetumpka.
A 29	1 do. 460	R. Y. Jones	do	Russell count.
A 8	20 do. 9,330 lbs	R. J. Woods	do	Randolph co.
	Ship'd to E. W. B. or G. P. & Co., if obliged to.			
M 1 to 23	23 B|C		Shipped on Magnolia.	
	1 do. No marks. No number		Do. through mistake.	
B 11019	19 do. Sundry purchases		Do. pr. Flirt, June 21.	
B 20	3 do. 20 460 Bot. of Anna Murphy		Do. 20 a 12c. do.	
21	21 499			
22	22 550			
	Shipped to G. P. & Co., Mobile.			
C 1 to 35	35 B|C	Maj. Arnold	Do. pr. Flirt, do.	
B & B	5 B|C	B. M. & H. Levey	June 20, pr. Coquette.	
38 to 42				
B & B	37 B|C	B. M. & H. Levey	Do. 20 or 30, pr. Coquette, June 23d.	
1 to 37	Ship'd pr. Coquette. Ship'd to G. P. & Co., Mobile.			
	Weights in back of book to G. P. & Co.			
B	2 B|C 432—895 lb 463	A. E. Fuller	June 28	Montgomery.
D 1	1 B|C 547 lb	W. W. Ringstaff T. H. Boyden.	June 30	Do. county.
D 2	1 B|C 480 lb. 20c	P. J. Allsop	do	Montg'y county.
D 3	1 bale cotton, 530 lb. to Wordry, live in town.	Wilson Goelter	July 1	Do. do.
D 4	1 bale cotton, 472 lb	Thos. Boyett	July 6	Do. do.
D 5	1 do. do. 423 do	Mrs. Brooks.		

[E. E.]

Memo.

146

Jas. Gilmer:

Rope ends and rags, 2 c. pr. lb.
Wasbe cotton, 3 c. pr. lb.

Short on Read & Hunt's bill:

1 pr. ladies' goat boots	$24 00
2 pr. ladies' goat Bal. boots	33
2 pr. ladies' goat Bal. boots	27 00

Also 3 knives short, E. W. B., 19 pr. doz.

Goods in Housman's store:

For pitcher cutter.
1 bbl. whiskey.

1 box sundries.
147 For E. W. Burbank:
1 box tinware.
1 box yeast powders.
1 box sundries, C. E. Spencer.
4 bbls. dr'd apples, C. E. Spencer.
1 bbl. smok. tobacco.
1 bbl. yeast powders.

Memo.

Shipped June 19, '65, from Montg'y to E. W. Burbank, N. O.:

1 box tobacco, 133–26–107 lb.
1 bale osnaburg, 685 yds.
33 bales cotton to G. D. & Co., Mobile.

	500½	
	520½	
4 bale osnaburg,	524½	Coleman.
	513	
	2,469½	

1 bale sheetings, 732 yds.
1 bale sheetings, 2,801.
23 bales cotton.

Weights cotton of lot 20 bales, s'nt E. W. B.:

520	460	460	460	460	510	Bo't of R. J. Woods.
260	470	320	470	570	440	
300	480	500	610	430	440	
670	500					
1,750	1,910	1,280	1,540	1,460	1,390	——9,330 lb.

Weights of cotton, lot B., M. & Leroy, 37 bales cotton marked B. B.:

1	344	10	419	19	582	28	484
2	544	11	330	20	460	29	439
3	570	12	531	21	780	30	325
4	480	13	521	22	518	31	520
5	525	14	503	23	526	32	414
6	535	15	351	24	560	33	370
7	615	16	570	25	500	34	384
8	580	17	405	26	401	35	524
9	580	18	390	27	495	36	517
						37	526
4,773		4,025		4,822		4,503	——18,123 lb.
5 B.C.	38 560	39 474		40 520	41 465	42 449	—— 2,466 lb.
							20,589 lb.

F. Boyden will deliver R. D. Green's cotton raised and registered by Wm. Norman

Page 2. Bigelow and			Burbank's cash. Page 3.		
May 29.					
May 30.	Cash sales two days	$1,609 45	May 30.	To cash, Alfred Morrell 1 bale cotton	$46 00
				Cash, J. R. Cameron, 2 bales cotton	84 00
				Cash, J. W. Parr, 1 bale osnaburg	171 88
				Cash, E. B. B. J., butler's checks	37 15
				Cash, drayage, cleaning, &c	20 40
				Cash on hand	1,250 00
		1,609 43			1,609 43
May 31	Cash on hand	1,250 00	May 31.	Cash to E. B. B., jr.	350 00
	Cash sales this day	142 20		Cash to T. S. B	500 00
				Cash to Chas. Swift	2 00
				Cash to drayage, wood, and beef	6 25
				Cash to E. B Bigelow, jr., checks	1 95
				Cash on hand	532 00
		1,392 20			1,392 20
June 1.	Cash on hand	532 00	June 1.	Cash expenses	474 75
	Cash sales this day	177 45		Cash on hand	704 70
		709 45			709 45
June 2.	Cash on hand	704 70	June 2.	Cash Hales Aylesworth, 2 bales cotton	133 50
	Cash sales this day	90 35		Cash, T. H. Masher, ex., Selma, (Bigelow, E. B)	10 00
				Cash paid G. A Buell and Doct. Crandall	20 00
				Cash, E. B. B., jr., checks	1 60
				Cash, 2 bales cotton	110 00
				Cash on hand	519 95
		795 05			795 05

Extracts from book marked No. 9—Continued.

	Page 4.	Burbank and			Bigelow's cash.	Page 5.	
June	3.	Cash on hand	$519 95	June	3.	Cash, B. F. Burlon, 1 bale cot., 230	$17 25
		Cash sales this day	32 70			Cash, F. McBride, 1 bale cot., 590	59 00
						Cash, Osborn Gafford, 2 bale cot	113 00
						Cash, marketing	3 20
						Cash on hand	360 20
			552 65				552 65
149	Page 4.	Burbank and			Bigelow's cash.	Page 5.	
June	4.	Cash on hand	360 00	June	5.	Cash, drayage and help	18 75
		Cash, E. B. B, jr., Lt. McGuire	42 14		5.	Cash, O. Dennel, 1 bale cotton	55 00
		Cash, Ohio battery	265 50			Cash, Rob. House, lent	50 00
		Cash sales this day	675 30			Cash, marketing	4 00
						Cash on hand	907 75
			1,035 30				1,035 30
June	6.	Cash on hand	907 55	June	6.	Cash, Holmes, rent from June 16	50 00
		Cash, E. B. B., jr., of Baker & Lyon	77 50			Cash, 1 bale cotton, Coleman	60 00
		Cash, E. B. B., jr., of O. H. Crandall	43 54			Cash, tap and faucets	7 50
		Cash, E. B. B., jr., of P. McPherson	26 21			Cash, lab. marks, on ac cotton	600 00
		Cash, E. B. B., jr., of C. M. Rokefeller	20 20			Cash, bread knife and tools	5 50
		Cash, Wm. Van Bandt, in full ac	39 00			Cash, telegraph to E. W. B	3 50
		Cash, H. C. Cooper, on full ac	19 00			Cash, telegraph to E. W. B., June 7	2 50
		Cash, Capt. Scott	8 50			Cash on hand	1,171 25
		Cash, Capt. Rice	31 75				
			1,173 25				

	Cash Lieut. A. H. Matton, in full	28 50	
	Cash Lieut. Col. J. J Lyons	17 05	
	Cash Lieut. McPherson	18 00	
	Cash Lieut J. W. McGuire, in full	12 55	
	Cash Doct. O. H. Crandall	23 46	
	Cash sales this day	626 44	
		1,900 25	1,900 25

Page 6. Burbank and Bigelow's cash, Page 7.

June	7.	Cash on hand	1,171 25	Cash Gaffold Osborn, 2 bales cot	150 00
		Cash sales this day	859 25	Cash Rob't House, lent	100 50
				Cash Fountain and Owen, rent to July 7, one mo. adv	75 00
				Cash rope	24 50
				Cash 1 bale cotton	68 00
				Cash Sam'l Dunnuck, Q. M., voucher	15 00
				Cash bread and help	2 50
				Cash on hand	1,594 75
			2,030 25		2,030 25

150 Page 6. Burbank and Bigelow's cash. Page 7.

June	8.	Cash on hand	1,594 75	Cash 1 bale cotton	81 00
		Cash Levey, Robison & Co., on ac.	200 00	Cash bal. on cotton	16 50
		Cash Capt. Jacoba	8 00	Cash R. R. Johnson, 2 bales cott.	139 20
		Cash Capt. F. W. Morse	47 12	Cash Smith & Scott, 25 shirts	110 00
		Cash sales this day	729 14	Cash bread	50
		Cash E. B. Bigelow, jr.	100 00	Cash cheese knife	3 50
				Cash express on books, 1 25, dray 50	1 75
				Cash shoulder straps, J. J. L	10 00
				Cash repacking 8 bales cotton	24 00
				Cash on hand	2,292 56
			2,679 01		2,679 01

Page 8.

June	9.	Cash on hand	$2,292 01
		Cash Welch & Harmon	19 25
		Cash sales this day	940 34
			3,255 15
June	10.	Cash on hand	1,099 65
		Cash Gerhart (11 75) and Mann (13 50)	25 75
		Cash Harmon	20 80
		Cash Lieut. S. N. Saunders	17 50
		Cash Lieut. McClaury	6 00
		Cash Lieut. Wm. Burgess	25 00
		Cash sales this day	641 85
			1,835 00

Page 9.

June	9.	Cash Edmond Harrison ac't cotton	$2,000 00
		Cash W. W. Bigelow	100 00
		Cash Mr. Bow, loaned	10 00
		Marketing	2 50
		Rebaling 14 bales cotton	42 00
		On hand	1,099 65
			3,255 15
June	10.	Cash drayage	22 50
		Cash st. Virginia, 2 crates, 8 wet bls.	68 00
		Cash marketing ac.	8 85
		Crsh repacking 3 bales cotton	9 00
		Marketing ac.	6 65
		On hand	1,720 00
			1,835 00

151 Page 10. June 12th, 1865.

Cash on hand	1,720 00
Cash of E. B. Bigelow, jr.	3,300 00
Cash of G. Giovani, on ac.	36 00
Cash of E. Ponsett, on ac.	77 25
Cash of Capt. Pannes	22 75
Cash of Lt. Hugo Pfaeffu	70 00
Cash of B. B. Henshaw, bal. bill	20 00
Cash of E. N. Reading, on ac.	300 00

June 12th, 1865. Page 11.

Cash paid f'gt bill st. Joab Lawe	21 75
Cash paid 1 bale cotton, Wm. Compton	92 00
Cash paid E. Harrison for purchase cotton	2,100 00
Cash paid drayage	25
Cash paid Chas. Swift	10 00

		Cash of Rob't House, on ac.	10 00			Cash on hand	4,366 92
		Cash of Hull and Hedden, on ac.	200 00				6,590 92
		Cash of cash sales	787 00				
		Cash of Sunday's sales	37 92				
			6,590 92				
June	13.	Cash on hand	4,366 92	June	13.	To cash paid L. Marks bal. bill goods	310 00
		Cash of F. Benedict	172 10			cash paid L. Marks 4 bales yarn	300 00
		Cash of J. Rebholot	5 50			cash paid fg't st. Rob't Watson	28 00
		Cash of G. A. Buell, on ac.	4 00			cash paid Geo. B. Hamon for 1 b. c.	34 00
		Cash of D. Giovani	203 92			cash paid mdse. Scott & Co's bill	35 18
		Cash of Exchange Hotel	26 00			cash paid expense paid 4 drayages	2 00
		Cash of Lieut. L. N. Boynton, on ac.	21 00			on hand	4,730 38
		Cash of cash sales this day	1,140 12				
			5,939 56				5,939 56
June	14.	Cash on hand	4,679 23	June	14.	By expense p'd for use of house	6 00
		Cash of Levy, Robinson & Co., on ac.	160 00			mdse. p'd L. Waltman & Co., tobac. bill	156 30
		Cash of Hall & Hedden, on ac.	300 00			cash p'd for voucher J. M. Taylor, am't $52 50	43 00
		Cash of Mrs. Wilson, on ac.	9 00			mdse. p'd 2 b. cotton of J. J. Stowers	173 44
		Cash of Robert Heme	25 00			E. W. Burbank, N. O., p'd on ac.	4,000 00
		Cash of cash sales	1,061 34			expense p'd com. on 3 b. cotton	13 00
		Cash of surplus	26 21			mdse. p'd Weil & More's bill	138 44
						mdse. p'd for 90 lb. cotton 10c.	9 00
						expense p'd com. on change $500 a 5 p. c.	25 00
						expense p'd drayage 75, and comm. 2 25	3 00
						expense p'd for redemption of tickets	8 35
						on hand	1,655 25
			6,260 78				6,260 78

152

Dr.	Page 12. Cash.		Page 13. Cash.	Cr.
June 15.	To cash on hand	$1,655 25	June 15. By cash paid for 3 vouchers	$18 00
	Hull & Hedden on a'c	100 00	expense paid cab hire, desp'tch and drayages	5 45
	Robt. House	100 00	paid for checks redeemed	6 60
	Lieut. Smith	16 00	pd. on hand	2,698 94
	Levy, Robinson & Co., on ac.	100 00		
	cash, cash sales this day	757 74		
		2,728 99		2,728 99
16.	To cash on hand	2,698 94	16. By F. Robinson pd. him on ac. 24 b. c.	300 00
	cash of Hull and Haden	165 00	mdse pd. for 1 b. c. 480 lb. a 14	67 20
	store No. Market st, for 1 mo. rent	100 00	S. Bowman pd. him	5 00
	Menecke on ac. bills rendered	18 00	mdse pd. J. Hein, bill shirts, &c	130 00
	error	00 00	Jesse H. Roberts, pd. him on ac. 1 b. c.	12 00
	cash sales this day	751 40	expense pd. drayage	25
			expense pd. for redemption of checks	4 85
			balance on hand	3,214 04
		3,733 34		3,733 34
17.	To cash on hand	3,214 04	17. By mdse pd. for 412 lb. loose cotton a 9c	37 08
	Jno. A. Collins on ac.	65 00	Jesse H. Roberts pd. bal. due him on 1 b. c.	71 10
	Hull & Hedden on ac.	140 00	(pd. Jas. Wright, bill cigars,) mdse	589 25
	E. N. Reading on ac.	55 00	cash pd. for voucher of Laroy Napier	457 45
	H. Moore	3 00	cash pd. for voucher of J. Merriweather	208 40
	Jas. Wright	33 00	cash pd. for voucher of A. G. Wray	163 92
	Weil & Moore	6 00	expense pd. for despatch (2 50,) wharfage (1 25,) rope and bg	
	cash sales this day	1,043 86	expense pd. sardines (13 50,) rule, (1 25,) paper,	
	Jno. A. Collins on ac.	10 00		

	4,579 90

153 Page 14.

19. To E. Ponsell on ac	39 70
cash on hand	3,024 30
E. R. Ferris, change ret'd	50 00
E. R. Ferris, pd. on ac. bill rend	270 00
Mrs. Wilson, pd. on ac. bill rend	20 00
E. B. Bigelow, money put in bus	1,600 00
Col. Edm'd Harrison, part of money ret'd by him for the purchase of cotton	915 00
cash sales this day	1,319 18
cash over this day	46 47
	7,284 65

&c., (80 c)	19 30
expense pd. for redemption of tickets	9 10
balance on hand	3,024 30
	4,579 90

By mds. Augustus Baldwin gov. T., 75 00 over error. 58 10

Page 15.

19. By E. R. Ferris, loaned him in change	50 00
mdse. pd. Brice and Clapp	12 00
cash A. Baldwin, gov. voucher, 75 00	58 10
mdse. pd. S. M. Hardin, for 2 b. c.	123 75
mdse. pd. Wm. Johnson, for 2 b. c.	97 86
expense pd. frt. on 31 rolls bagging, and 15 c. rope for Magnolia	97 50
mdse. pd. A. Strassburger's bill ale	94 00
F. Robinson, pd. on ac. bill cotton	50 00
Major Arnold, pd. on ac. 35 b. c.	1,000 00
Mr. Hausman, pd on ac. 45 b c.	400 00
cash pd. Jno. M. Gray for voucher 138 60	107 40
mdse. pd. Scott & Co's bill fancy goods	18 67
mdse. pd. J. Hein bill shoulder strap	10 00
mdse. pd. D. S. Arnold bill ale	13 00
mdse. pd. Mr. Vaughan for 3 b c	232 90
mdse. pd. Rob't Y. Jones for 1 b. c.	78 20
mdse. pd. R. J. Wood, for 20 b. c.	1,562 77
expense pd. wharfage on cotton b. and rope	13 85
E. B. Bigelow paid him	1 00
expense pd. for 2 bbls. ale, $70; cotie paper, (1 50,) drayage (25) and premium (35) and labor (1 50) and wharfage (13 85)	122 10
pd. for redemption of tickets	2 85
balance on hand	3,138 70
	7,284 65

Extracts from book marked No. 9—Continued.

June 20.	To balance on hand	$3,138 70	June 20.	By mdse. Weil & Moore, pd. bill for oysters	$28 75
	D. Giovani pd. am't bills rend	214 00		mdse. pd. J. Hein, bill for shoulder straps	15 00
	Hull & Haden pd. on ac. rend	100 00		mdse. pd. D. S. Arnold's bill wines	36 00
	Beebe & Co. pd. on ac. rend	300 00		mdse. pd. Strassburger for mack'l	11 00
	cash sales this day	617 60		mdse. pd. J. Hein's bill, socks, &c.	25 50
	cash over this day	5 65		mdse. pd. S. Waldman & Co., pickles and cherry	28 29
				expenses pd. marketing, (6 00,) and she brushes, (3 00)	
				expenses pd. mess (2 20,) and emery paper, (5,) &c., 2 50)	18 70
				pd. for redemption of tickets	7 40
				balance on hand	4,205 31
		4,375 95			4,375 95

154 Page 16. Page 17.

Dr.	Cash.		Cash.	Cr.
June 21.	To balance on hand	4,205 31	By expense pd. for packing 4 b. c	10 00
	Hull & Haden on ac	100 00	Major Arnold paid him bal. of bill of 35 bales cotton	1,883 00
	To Levy, Robinson & Co	100 00	mdse. pd. S. P. Mendey, bill pens	30 00
	" Cash sales this day	796 25	mdse. pd. for watch No. 94,660	100 00
			B. M. & H. Levey, pd. on ac. 41 or 45 b. c	1,000 00
			mdse. pd. Anna Murphy, 3 b. c	187 50
			" pd. for watch, 154 50, and emory paper $1 75	156 25
			expense pd. for drayage, 13 25, premium, 25, and books, 2 00	15 50
			paid for redemption of tickets	2 97
			balance on hand	1,816 29
		5,201 56		5,201 56

June	22.	Balance on hand	1,816 29	June	22.	By expense pd. wharfage on 57 b. c	8 55
		To E. R. Ferris on ac	12 00			R. Turton lent him	15 00
		A. P. Watts, pd. bill in full	61 00			mdse. pd. Da idson & Calm bill tobacco	126 80
		Robt. Turton, pd. bill 1 bbl. ale	35 00			" " R. G. Banks & Co. " pickles	16 50
		Exchange Hotel, pd. bill 5 gall. alcohol	32 50			cash pd. for six vouchers	
		cash sales this day	342 58			49 40 less 22½ p. c. R. H. Fitzpatrick $38 23	
						127 50 " " H. G. Meriweather 98 76	
						112 50 " " John Gilmore 87 13	
						350 70 " " Chas. Meriweather 271 74	
						690 35 " " T. H. S. Meriweather 534 97	
						106 50 " " J. Salford 82 48	
							1,113 31
						cash paid for coin	6 00
						expense paid for paper 10, premium 65, dray-age $1 00, despatch $1 00, and mess $5 00	7 75
						pd. for redemption of tickets	1 73
						balance on hand	1,003 73

Page 18. Page 19.

Dr. Cash. Cr.

June	23.	To balance on hand	1,003 73	June	23.	By expense pd. for lettering sign	12 00
		E. R. Ferris	25 65			mdse. " " Rossiter & Co., for 1 bbl. ale	35 00
		E. Beebe & Co., and bill 19th inst	59 00			expense ac. drayage 23 loads, and wharfage on cotton $6 30, labor 50, and yarn &c., $3 50, and gimlet 50	21 80
		E. M. Reading pd. on ac	200 00			expense for redemption of tickets	2 85
		error	00 00			balance on hand	2,164 11
		Robt. House pd. on ac	500 00				
		cash sales this day	447 38				
			2,235 76				2,235 76

Page 18. Page 19.

Dr. Cash. Cr.

June	24.	To balance on hand	2,164 11	June	24.	By expense pd. frt. on 33 boxes mdse. pr. Joab Lawrence fr. N. O.	49 25
		Levey, Robinson & Co	200 00				

Extracts from book marked No. 9—Continued.

June 24.	To Robt. Turton pd. on ac	$20 00	June 24.	By mdse. pd. for 80 lbs. cotton Mrs. Murphy	$8 00
	cash sales this day	553 30		cash pd. for voucher of R. Fowler, amt. 43 20	33 43
				B. M. & H. Levy, pd. bal. of 42 b. c	2,306 02
				expense pd. Simon $18 00, and wood $1 50, and drayage $1 35, sign irons $1 50, and wharfage on 33 boxes mdse. $3 25	25 60
155				cash paid for T. E. May's voucher, amt. $27 00	20 25
				S. Bowman paid him	5 00
				expense pd. for redem. of tickets	10 35
				balance on hand	479 51
		2,937 41			2,937 41
June 26.	To balance on hand	479 51	June 26.	By Robt. House	300 00
	Levey, Robinson & Co., on ac	180 00		expense hack hire	2 00
	Capt. Stees bal. of bill	39 65		" freight str. Virginia	526 07
	Mr. Coleman loaned	400 00		Ned, the steward	10 00
	Mosher & Bishop loaned us	400 00		mdse. pd. for 1 doz. tooth brushes	2 50
	Hull & Hadden on ac	165 00		expenses pd. drayage $12 25, labor $1 00, and wharfage $32 00	45 25
	Levey & Robinson on ac	200 00		expense premium	2 80
	cash sales this day	1,395 35		balance on hand	2,370 89
		3,259 51			3,259 51

Page 20.

Dr. Cash.

June 27.	Balance on hand	2,370 89	June 27.	By mdse, pd. E. Kirscher for 2 c. cherries	32 00
	To E. R. Ferris, amt. bill of 23d	59 50		mdse. " F. Rossiter & Co., for 2 bbl. beer	70 00
	Rossiter & Co. pd. in full	21 00		" " M. Steiner for 3 boxes tobacco	88 32
	cash sales this day	1,319 05		T. S. Burbank, paid him	10 00

Page 21.

Cash. Cr.

				expenses pd. for telegram to E. W. Burbank, 2 50, demijohns $3 50, paper 25, drayage $1 00	7 65
				mdse. returned	12 00
				balance on hand	3,550 47
					3,770 44

156 Page 20. Page 21.

Dr.	Cash.		Cr.	Cash.	
June 28.	To balance on hand	3,550 47	June 28.	By expense, p'd fr't on 105 cases per Flirt	78 75
	Hull & Hadden, p'd on acc't	80 00		m'dse, p'd for 8 boxes tobacco, (Solignau)	369 00
	cash sales this day	866 76		Mr. Coleman, ret'd him money loaned	400 00
				m'dse, p'd McFerran & Menepe for rope and bagging	114 08
				m'dse, p'd A. E. Fuller for 2 bales cotton	196 90
				expenses, p'd for drayages ($5 25) and potatoes, ($2;) wharfage on 105 cases, ($10 50)	17 75
				m'dse, p'd for 1 blouse	15 00
				balance on hand	3,305 75
		4,497 23			4,497 23
June 29.	To balance on hand	3,305 75	June 29.	By cash, p'd for voucher of H. M. Coffee, am't $514 50	398 70
	Levey, Robinson & Co., on acc't	150 00		m'dse, p'd for stamps	100 00
	John Davis, p'd on acc't	15 00		E. B. Bigelow, paid him	5 00
	cash sales this day	2,229 40		expense, p'd for drayage and paper	65
				balance on hand	5,195 80
		5,700 15			5,700 15

Extracts from book marked No. 9—Continued.

	To balance on hand		$5,195 80
June	30. To R. Turton, paid on acc't		93 00
	Edm'd Harrison, paid on acc't		1,500 00
	cash sales this day		674 26
			7,463 06

Page 22.

Dr. Cash.

July	1. To balance on hand		5,705 25
	J. Hausman, borrowed of him in silver		40 00
	Wm. F. Pitcher, in full		28 61
	Wilson, (warehouseman,) p'd am't his bill		5 95
	Lieut. A. H. McHatton		5 00
	cash sales this day		736 90
			6,521 71

June	30. By m'dse, p'd for 1 bale of cotton, W. W. Rugstaff		$125 81
	expense, p'd fr't on 105 cases per Coquette		130 25
	E. B. Bigelow, paid him		1,500 00
	expense, acc't p'd drayages		1 75
	balance on hand		5,705 25
			7,463 06

Page 23.

Cash. Cr.

July	1. By expense, p'd wharfage on goods per st'r Coquette		10 00
	m'dse, paid P. J. Allsop, 1 bale cotton		96 00
	John Pickett, paid him, in silver, on acc't, 2 bales cotton, to be delivered in Greenville		75 00
	m'dse, p'd Wilson Goetter for 1 bale cotton		53 00
	cash, p'd Peter Long for voucher, am't $6		4 00
	expense, p'd fr't on 21 bbls. 40 boxes per Magnolia		102 00
	T. S. Burbank, p'd fr't on 3 cases per Magnolia		34 00
	E. B. Bigelow, p'd Mr. Fountain's bill for 1 buggy		175 00
	expense, p'd wharfage on m'dse per Magnolia		7 50
	expense, p'd Wilson $22, Thornton $6, jug 50 cts., drayages $7, and mess. $5, Ned the cook $10, and poultry $2 40		52 90
	balance on hand		5,912 31
			6,521 71

Page 22.

Dr. Cash.

July	3.	To balance on hand	5,912 31
		cash over 1st inst	54 89
		John Davis	15 00
		E. R. Ferris, paid bill	76 25
		E. Ponsett, paid bill in full	47 30
		expense money returned for over charge on fr't per st'r Virginia	41 70
		A. Adams, p'd on acc't, bill rend	13 00
		Mrs. O'Neill, p'd on acc't, bill rend	67 00
		cash sales this day	961 25
			7,188 70
July	5.	To balance on hand	4,994 45
		Levy, Robinson & Co, paid on acc't	200 00
		Z. E. B. Nash, paid on acc't	30 00
		Levey, Robinson & Co	245 35
		cash sales this day	666 20
			6,136 00

Page 24.

Dr. Cash.

1865.			
July	6.	To balance on hand	6,069 45
		B. N. Wilkinson, in full	1 50
		E. Beebe & Co	66 00
		cash sales this day	483 42

Page 23.

Cash. Cr.

July	3.	By cash paid for voucher of A. B. Peck, $824	618 00
		expense, fr't and wharfage on 10 cases per st'r Clipper	24 00
		m'dse p'd on 4 cases cherries	52 00
		J. Hausman, paid him in full	1,417 87
		m'dse, p'd D. S. Arnold for 6 c. cider	42 00
		cash paid for voucher of J. W. Orrill, $47. 83	35 88
		expense, paid drayages, ($1 50,) premium, ($1,) paid packing 1 bale cotton, ($2)	4 50
		balance on hand	4,994 45
			7,188 70
July	5.	By Cha's Swift, paid him	25 00
		Sam'l Bowman, paid him	10 00
		m'dse, paid for one silver watch	25 00
		expenses, mess $5, expressage 25 cts.; expenses, jug and funnel $1, and drayage 30 cts.	6 55
		balance on hand	6,069 45
			6,136 00

Page 25.

Cash. Cr.

July	6.	By m'dse, paid A. Strassburger cigars	282 50
		m'dse, ret'd 27 lb. pepper, 60 cts	16 20
		m'dse, paid S. M. Wiggins, Mobile, am't bill sundries, care T. S. Burbank	241 25
		expense, paid fr't bill on goods per M. and G. N. R. R., of May 27, '65	150 00
		expense, paid fr't at Mobile to st'r Reserve on goods, June 5, '65	194 50

Extracts from book marked No. 9—Continued.

158

Page 24.

Dr. Cash.		Cr. Cash.	
		July 6. By expense, paid wharfage, drayage, &c., at Mobile, June 5, '65	$45 75
		expense, paid wharfage and drayage on goods, ex st'r Admiral, to st'r Coquette, Mobile	5 00
		expense, and watching goods ex Admiral	4 50
		expense, dray and fr't on goods per railroad from Mobile, June 28th	3 50
		expense, from and do. on ale, for Coquette, at Mobile, June 28th	5 50
		expense, expenses of T. S. Burbank at Mobile, June 28th, 1865	15 50
	$6,620 37		
1865.			
July 7. To balance on hand	5,404 07		
G. Giovanni in full	52 50		
cash sales this day	520 75		
	5,977 32		5,977 32

Page 25

Cash.		Cr.	
		July 6. By expenses pd. for postage stamps	207 00
		expenses telegram 1,25, drayage 50c, and bailing cotton 2,00	3 75
		S. Bowman, paid him	3 50
		mdse. pd. for beeswax and needle	2 50
		mess. chickens and butter	5 35
		balance on hand	5,404 07
			6,620 37
1865.			
		July 7. By cash paid for voucher of H. B. Barker, $31 50	23 62
		Mosher & Bishop pd. on acct. money loaned	200 00
		E. W. Burbank pd. on acct. bills rend	1,500 00
		E. W. Burbank pd. on acct. bills rend	1,000 00
		mdse., paid Miss Brooks for 1 bale cotton	76 15
		expenses paid, drayage 1 00, c. book 3 00	4 00
		balance on hand	3,173 55
			5,977 32

Dr. Page 26.

1865.	Cash.	
July 8.	To balance on hand	3,173 55
	Weil & Moore paid in full	57 85
	Mrs Wilson paid in full	38 29
	J. M. Reading paid in full	433 92
	L. Waldman paid in full	10 00
	cash sales this day	515 30
		4,228 91
July 10.	To balance on hand	4,057 76
	E. Ponsett in full	55 00
	W. J. Weaver in full	1 92
	Geo. Flake in full	1 50
	cash sales this day	396 81
159	cash over	35 29
		5,548 28

Page 27.

1865.	Cash.	Cr.
July 8.	By mess, paid it	5 00
	mdse., paid Weil & Moore's bill	44 40
	mdse. paid for 120 lbs. cotton	18 00
	Ch's H. May, paid him	8 00
	mdse. paid J. Gilmer for 2 bl. paper cotton	38 75
	Mr. Woodleaf	5 00
	expense paid, 1 week advertising in Post	30 00
	pd. his bill in full	00 00
	expenses pd. for telegram 2 00, paper 25c., baleing 2 00, drayage 3 75, Wilson 6 00, Thornton 6 00	20 00
	Ned the cook	2 00
	balance on hand	4,057 76
		4,228 91
July 10.	By E. W. Burbank, pd. on acct	300 00
	E. W. Burbank, paid him on acct	2,500 00
	mdse. paid Jas. Gilmer for 2 bales paper cotton and 1 bale rope	44 72
	expenses, paid wharfage on 24 bales cotton 3 60; and 1 bbl. 2 50, and drayage 1 25, watching cotton	9 35
	mess paid it	5 00
	balance on hand	1,689 21
		4,548 28

July 11. To balance on hand		$1,689 21
Levey, Robinson & Co. on acct		140 00
cash sales this day		346 90
		2,176 11

Page 28.

Dr. Cash.

1865.		
July 12. To balance on hand		1,224 71
Hull & Hadden in full		65 35
cash sales this day		333 15
		1,623 21
July 13. To balance on hand		1,617 71
D. W. Hughes & Co		10 60
D. Giovanni		282 07
A. Gugcuheim & Co		22 14
L. Graham		5 25
cash sales this day		416 70
		2,354 47

July 11. By mdse. paid Tho's Boyett for 1 b. c., July 6th, but omitted to be ent		$118 00
E. W. Burbank, R. H		500 00
E. W. Burbank, R. H		200 00
mdse., paid Elija Rae for 1 bale cotton 520 lbs. a 24		127 40
expenses paid for lime		1 00
Martin, paid him		5 00
balance on hand		1,224 71
		2,176 11

Page 29.

Cash. Cr.

July 12. By expenses paid Thornton		3 00
mdse. paid 1½ doz. cider		2 50
balance on hand		1,617 71
		1,623 31
July 13. By J. Hausman, paid him silver loaned		40 00
cash paid for voucher of G. W. Mathews am't 66 00		49 50
mess paid it		5 00
balance on hand		2,259 97
		2,354 47

July 14. To balance on hand		2,259 97
E. M. Reading in full		65 00
cash sales this day		178 20
		2,503 17

July 14. By Mosher & Bishop, ret'd them		200 00
E. W. Burbank S. A. D		1,000 00
E. W. Burbank B. H		200 00
E. W. Burbank R. H		400 00
expenses, paid drayage 3 25, and labor 25		3 50
mdse. paid 86 lbs. cotton a 20 c, 17 20		17 20
mdse. 1 case brandy 34 00, and shoes 5 50, ret'd		39 50
balance on hand		642 97
		2,503 17

160 Page 28. Page 29.

Dr. Cash. Cr.

July 15. To balance on hand		642 97
E. R. Ferris on ac		77 92
cash sales this day		295 25
		1,016 14

July 15. By m'dse paid for 125 lbs. cotton a 20		25 00
expenses paid Wilson, 6 00, wharfage on 30 bbls., pr. Coquette, 3 00, drayage 25		9 25
Chas, Swift, paid him		25 00
Ned, paid him		2 00
expense redemp. of tickets		1 50
balance on hand		953 39
		1,016 14

July 17. To balance on hand		953 39
Isaac Blunt		5 00
Capt. Schœneman		9 00
F. M. Cohen		130 00
cash rec'd of Mr. Coquette, dam. on goods		18 50
cash sales this day		172 80

July 17. By expense paid fr't on 105 cases pr st'rs Magnolia and Waverly		157 50
T. S. Burbank, paid him rent of house of Mrs. Jackson		300 00
expense paid fr't on 20 bbls. flour and 10 whiskey		103 60
expense wharfage, 3 45, fr't goods, per Coquette, 74 00		77 15
W. W. Bigelow, paid him		10 00

Extracts from book marked No. 9—Continued.

			By expenses paid for soda, 8 50, wharfage, 8 00, fr't.		$16 50
			mess, paid it		5 00
			balance on hand		618 94
		$1,288 69			1,288 69

Page 30.

Dr. Cash.

Page 31.

Cash. Cr.

July 18.	To balance on hand	618 94	July 18.	By E. B. Bigelow paid J. H. Fuller money borrowed of him	20 00
	Mrs. O'Neill	14 40		m'd'se paid D. S. Arnold's bill for 1 bale bagging	108 00
	cash sales this day	245 00		mess, paid it	5 00
				T. S. Burbank, paid for butter and chickens	15 50
				expense paid for redemp. of tickets	1 60
				balance on hand	728 24
		878 34			878 34
July 19.	To balance on hand	728 24	July 19.	By Mr. Vincent 2 loads drayage on rope	1 00
	cash sales this day	612 95		expense paid wharfage on goods pr Mr. Flirt, 9 20, and fr't on goods pr R. R. to Greenvillle 7 00	16 20
				balance on hand	1,323 99
		1,341 19			1,341 19

161 Page 30.

Dr. Cash.

Page 31.

Cash. Cr.

July 20.	To balance on hand	1,323 99	July 20.	By expense paid premium on $200 in gold	96 00

	E. R. Ferris	65 55		expense paid premium on $40 in gold	19 20
	J. A. Collins, on ac. rec'd money for watch	125 00		Jas. K. Whitman, paid him on cotton	150 00
	cash sales this day	754 05		cash paid for voucher of Wm. Thompson, 26 25, expense paid despatch to E. W. B. 3 80, eggs, 4 25, and thread 8 00	19 69 / 16 05
				S. A. Dutcher, paid two despatches to him	2 00
				Ned, the cook	5 00
				mess, paid it	5 00
				balance on hand	1,957 65
		2,270 59			2,270 59
July 21.	To balance on hand	1,957 65	July 21. By	S. A. Dutcher, paid his draft	175 00
	cash rec'd firm, on $293 50 *a* 48 p. c.	140 88		S. A. Dutcher paid freight on bill goods shipped him this day	2 50
	Jas. Wright loaned us	400 00		E. W. Burbank, paid him vrs	951 75
	cash sales this day	370 59		E. W. Burbank, S. A. D., paid him in greenbacks $1,000 00, and specie $293 50	1,293 50
	" over " "	20 26		E. W. Burbank S. A. D., paid premium on $293 50 *a* 48 p. c.	140 88
				expense paid for drayage, 50, and fr't to Greenville, 2 00, stockings ret'd, 21 00, box rent, 2 00 wrap paper, 3 75	29 25
				balance on hand	496 50
		3,089 38			3,089 38
	Page 32.			Page 33.	
1865.	Dr. Cash.			Cash.	Cr.
July 22.	To balance on hand	496 50	July 22. By	Edw. W. Burbank, paid him, vouc	89 64
	cash sales this day	392 45		Jas. Wright, paid him money lent	400 00
	" over last evening	68 59		E. W. Burbank, paid him, vouc	37 12
				expense paid Wilson 6 00, drayage 50	6 50
				mess, paid it	5 00
				cash paid for redemp. of tickets	33 78
				balance on hand	385 50
		957 54			957 54

Extracts from book marked No. 9—Continued.

162

Page 32.

Dr. Cash.

July 24.	To balance on hand	$385 50
	Wilson, paid bal. due	1 55
	E. Ponsett, paid in full	27 00
	G. Giovanni, paid in full	67 60
	J. L. Millspaugh & Co., in full	73 90
	Mosher & Bishop, in full	28 32
	Le Grande & Molton, in full	29 26
	L. Waldman, in full	63 00
	A. Gugenheim & Co., in full	29 26
	Jas. Wright	50 00
	E. W. Burbank paid our draft on him, favor Jas. Wright, am't his bill	501 15
	E. W. Burbank paid our draft on him, favor S. M. Wiggins am't his bill for ale and beer, June 27th	342 50
	J. Hausman, paid in full	21 88
	cash sales this day	289 90
		1,910 82
July 25.	To balance on hand	1,023 17
	Jno. Davis, bal. due	1 00
	cash sales this day	508 90
		1,533 07

Page 33.

Cash. Cr.

July 24.	By E. B. Bigelow, paid for one suit of clothes and hat, bot. of Jas. Wright	$39 50
	m'dse paid am't Jas. Wright's bill in full by draft on E. W. Burbank, N. O.	501 15
	m'dse paid am't S. M. Wiggins' bill in full, by draft on E. W. Burbank	342 50
	expense paid for redemp. of checks	4 50
	balance on hand	1,023 17
		1,910 82
July 25.	By E. W. Burbank, p'd Jno. Conran	150 00
	mess, paid it	5 00
	m'dse paid for goods ret'd by Mr. E. W. H. Kennon	41 00
	balance on hand	1,337 07
		1,533 07

Page 34.

Dr. Cash.		Cr. Cash.	
July 26. To balance on hand	1,337 07	July 26. Mr. Vincent paid for packing and labor on 2 bales rope ends	7 75
cash sales this day	644 70	By cash paid for premium on $31 50 in gold, @ 45 p. c., and on 8 50 in silver, 35 p. c	14 17
		E. W. Burbank S & D paid him	200 00
		Vincent paid him bal. due on 2 bales paper stock.	16 45
		mess. paid it	5 00
		expense paid for drayage, 1 50, despatch, 1 00	2 50
		m'dse paid for cotton 50, and bottles 5 00, and 44 lb. paper stock, 2 20	7 70
		S. A. Dutcher loaned him	5 00
		balance on hand	1,723 20
	1,981 77		1,981 77
July 27. To balance on hand	1,723 20	July 27. By expense paid on ac., $131 25, for adver't in Mail for 3 mos., from June 6	65 00
cash ret'd	25 00	m'dse paid for 1 case matches	35 00
cash sales this day	172 77	m'dse paid for 87 lb. cotton @ 16, $13 92, wharfage 75, and 33 lb. cotton @ 15, $4 95	19 62
		expense paid drayage on cotton	75
		balance on hand	1,800 60
	1,920 97		1,920 97
July 28. To balance on hand	1,800 60	July 28. By Sam'l Bowman, paid him	5 00
Rob't House paid us	307 85	E. W. Burbank, paid H H bal. due	1,311 01
Edm'd Harrison paid on ac	500 00	T. S. Burbank, paid him	100 00
William F. Pitcher paid in full	94 40	m'dse paid for 136 lb. cotton 20 c	27 20
cash sales this day	243 75	E. W. Burbank, paid him' col. over	350 30
		expense paid for baleing 1 b. c	3 00
		m'dse paid for 66 lb. pr. for stock, 5	3 30
		balance on hand	1,146 75
	2,946 60		2,946 60

Rec. 322—6

164 Page 36.

Dr.	Cash.	
July 29.	To balance on hand	$1,146 79
	Levey, Robinson & Co., paid on ac	3 40
	Robt. Turton, paid in full	36 60
	cash sales this day	328 30
		1,515 09
July 31.	To balance on hand	1,289 64
	E. Ponsett in full	9 00
	R. Turton, pd. on ac. bill this date	50 00
	cash sales this day	419 00
		1,767 64
Aug. 1.	To balance on hand	903 44
	cash sales this day	433 05

Page 37.

	Cash.	Cr.
July 29.	By m'd'se paid Weil & Moore's bill for 1 bale bagging and 3 coils rope	$190 15
	mess paid it	5 00
	H. C. Davidson paid him	3 00
	E. B. Bigelow paid for goods furnished	10 55
	cash paid for J. L. Peacock's vou., 12 00	9 00
	m'd'se paid for 35 lb. paper stocks 5	1 75
	expense paid Wilson for 1 w'k labor	6 00
	balance on hand	1,289 64
		1,515 09
July 31.	By E. B. Bigelow, paid Charlie's expenses to go north for collection of sutler's checks of 1st, Ill	150 00
	Chas. Swift paid him	10 00
	Weil & Moore loaned them	500 00
	expense paid, rent of store from July 27 to Aug. 27, J. H	150 00
	m'd'se paid J. Hausman for 2 coils rope	25 45
	m'd'se paid for handk'fs and thread	8 75
	E. B. Bigelow paid him	5 00
	J. K. Whitman paid him	15 00
	balance on hand	903 44
		1,767 64
Aug. 1.	By m'd'se paid for 1 gold watch, No. 6,768	35 00
	m'd'se paid for 1 kit. mack'l	4 50

			1,336 49		mess paid it	5 00
					T. S. Burbank paid him	10 00
					expense paid for one drayage, 25	25
					license for store till Mar. 1, '66	62 50
					balance on hand	1,169 24
			1,336 49			1,336 49

165 Page 38. Page 39.

Dr.	Cash.		Cr.	Cash.	
Aug.	2. To balance on hand	1,169 24	Aug.	3. By Jno. Pickett, paid him bal. in silver due on 2 bales cotton delivered in Greenville, 958 lbs. 15	68 70
	J. W. Pou, paid in silver	43 00		cash paid, prem. on $43 silver, 35	15 05
	J. W. Pou, prem. 35 on silver, 43 00	15 05		cash paid for voucher, H. Burk $30 06	20 00
	J. W. Pou, paid on ac. his bill	65 68		expense paid drayage.	50
	E. M. Reading in full	125 85		m'd'se paid for chalk and mack'l	8 25
	J. W. Pou paid on ac	50 00		balance on hand	1,673 27
	cash sales this day	316 95			
		1,785 77			1,785 77
Aug.	3. To balance on hand	1,673 27	Aug.	3. By mess paid it	5 00
	cash sales this day	274 80		E. B. Bigelow paid him	2 25
				balance on hand	1,940 82
		1,948 07			1,948 07
Aug.	4. To balance on hand	1,940 82	Aug.	4. By H. C. Davidson paid him	3 00
	Robt. Turton on ac	100 00		E. B. Bigelow paid him	5 00
	cash sales this day	213 85		balance on hand	2,246 67
		2,254 67			2,254 67

Extracts from book marked No. 9—Continued.

Aug. 5.	To balance on hand		$2,246 67
	Robt. Turton paid us on ac		100 00
	cash sales this day		238 40
			2,585 07
Aug. 7.	To balance on hand		2,185 42
	E. Ponsett, paid in full		6 75
	Mr. Ruppenthal, paid in full		1 60
	Ned Garrett, paid in full		5 00
	E. R. Ferris, paid in full		56 24
	cash sales this day		155 30
			2,410 31

Aug. 5.	By m'd'se paid Lacy & Co., bill tobacco		$333 75
	C. H. May paid him		50 00
	expense paid Wilson		6 00
	m'd'se paid for butter and eggs		9 90
	balance on hand		2,185 42
			2,585 07
Aug. 7.	By m'd'se for 2 boxes tobacco, bot. S. A. D.		160 80
	E. B. Bigelow paid him		3 00
	Ned paid him		2 00
	expense paid for despatch to Mobile 1 40, and susp. 3 months to advertiser		4 90
	bal. on hand		2,230 61
			2,410 31

166 Page 40. Page 41.

Dr. Cash. Cr. Cash.

Aug. 8.	To balance on hand		2,239 61
	Mr. Sayers, paid in full		2 00
	Weil & Moore, ret'd money loaned		500 00
	D. Giovanni, paid in full		36 50
	G. Giovanni paid on act		90 00
	cash sales this day		260 70

Aug. 8.	By cash paid W. Sampson for vour., $10 00		5 00
	cash paid J. Fenton for vour., $15 00		10 00
	expense paid frt. on 1 crate crockery and 2 box pr. Frances, from Mobile		10 70
	expense paid frt. on J. K. Whitman, 3 bales bagging and 20 coils rope, pr. R. R. from Mobile		66 75
	expense p'd frt. on bagging and rope pr. R. R. fr. Mobile		62 75
	mess paid it		5 00
	mdse. paid for butter, ham, lard, and mackerel		22 90
	balance on hand		2,945 71

		3,128 81				3,128 81
Aug.	9. To balance on hand	2,945 71	Aug.	9. By cash paid D. Lockart for his vouchers, amt.		
	Z. E. B. Nash, paid in full	31 50		$15 00		11 00
	A. V. Robinson & Co., on act	100 00		T. S. Burbank paid him		150 00
	cash sales this day	455 01		mdse. paid Kennon & Ramsey's bill of bacon, potatoes, and lard		231 45
				E. W. Burbank paid him Z. E. B. N		1,000 00
				Sam. Bowman paid him		115 00
				mdse. paid for 2 doz. c. cards ($32 00) and 1 empty barrel $1		33 00
				E. B. Bigelow paid him		15 00
				expense paid wharfage on good pr. Flint		3 00
				balance on hand		1,973 77
		3,532 22				3,532 22
Aug.	10. To balance on hand	1,973 77	Aug.	10. By expense paid "Mail" bal. due for adver. 1 column Sept. 6		66 25
	L. Graham, paid in full	19 00		expense paid prem. on ($25) and corkscrew (75)		1 00
	cash sales this day	335 46		balance on hand		2,260 98
		2,328 23				2,328 23
167	Dr. Page 42.			Page 43.		Cr.
Aug.	11. To bal. on hand	2,260 98	Aug.	11. By S. A. Dutcher paid Mr. Blum pr. order		38 31
	cash sales this day	285 65		cash loaned on silver, amt. $19 80		25 00
				mdse. paid for hats $16 50 and faucet 75 and mdse. not sent to J. Colvin, $33 00		50 25
				mess paid it		5 00
				S. A. Dutcher paid frt. on 4 boxes		3 00
				E. B. Bigelow paid him		5 00
				expense paid prem. on $20 in gold		9 00
				bal. on hand		2,411 07
		2,546 63				2,546 63

book Extracts from marked No. 9—Continued.

Aug. 12.	To balance on hand	$2,411 07	Aug. 12.	By expense paid Wilson (6 00) and 5 doz. jugs (21 60)	$27 60
	cash sales this day	425 54		H. C. Davidson paid him	5 00
				balance on hand	2,804 01
		2,836 61			2,836 61
Aug. 14.	To balance on hand	2,804 01	Aug. 14.	By expense paid gas bill 1. mo. to 1st inst	10 00
	E. Ponsett in full	50 94		mdse. paid S. B. Baggins for 2 b. c., weighing 843 lbs. 27	227 61
	cash rec'd for vouchers from Capt. Drew	725 75		mdse. paid 4 doz. cott. cards	56 00
	Price, Clapp & Frances in full	126 63		E. W. Burbank paid him S. A. D	2,400 90
	cash sales this day	430 00		mdse. paid for shoes ret'd $4 50, sprinkling pot $1 50, cotton cards $56 90	62 00
				balance on hand	1,781 72
		4,137 33			4,137 33
Aug. 15.	To balance on hand	1,781 72	Aug. 15.	By mess paid it	5 00
	R. Turton	50 00		T, S. Burbank paid him	18 00
	cash sales this day	203 65		E. B. Bigelow	10 00
				expense paid 1 drayage	50
				balance on hand	2,001 87
		2,035 37			2,035 37
Aug. 16.	To balance on hand	2,001 87	Aug. 16.	By mdse. paid Weil & Moore's bill mack'ls, &c	21 50
	Jesse B. Night, paid in full	32 77		mdse. paid for 1 bbl. crackers ret'd $13 00; butter 75, and gro. buttons $2 50	16 25
	cash sales this day	276 20		expense paid frt. on 3 cases from Greenville $1 25, and frt. on 2 cases and crate from Mobile ($22 50,) and drayage, (50)	24 25

			2,310 84			2,310 84

168 Page 44. Page 45.

Dr.		Cash.		1865.	Cash.	Cr.
1865.						
Aug.	17.	To balance on hand	2,233 24	Aug. 17.	By expense paid wharfage on goods pr. str. Clipper fr. Mobile	80
		A. V. Robinson & Co. paid on ac	134 50		balance on hand	2,577 74
		cash rec'd on 5 vouchers	58 20			
		cash sales this day	152 60			
			2,578 54			2,578 54
Aug.	18.	To balance on hand	2,577 74	Aug. 18.	By mdse. paid Warren & Burch, bill 1, box tobacco	127 80
		Ned Garrett paid in full	2 00		Sam'l Bowman paid him	12 50
		Robt. Turton paid on ac	300 00		T. S. Burbank paid him, Dr. C	12 50
		cash sales this day	183 20		cash loaned on $5 in gold	7 00
					mdse. ret'd 1 straw hat	4 00
					balance on hand	2,899 14
			3,062 94			3,062 94
Aug.	19.	To balance on hand	2,899 14	Aug. 19.	By mdse. ret'd 1 pr. shoes	4 00
		A. Williamson	2 75		mess	5 00
		cash sales this day	325 40		mdse. ret'd 1 pr. shoes	4 00
					expense paid Wilson for 1 wk	6 00
					Ned paid him	5 00
					balance on hand	3,203 29
			3,227 29			3,227 29

E. B. Bigelow paid him 15 66
balance on hand 2,233 24

Aug. 21.	To balance on hand	$3,203 29	Aug. 21.	By E. W. Burbank	$2,500 00
	E. Ponsett paid in full	24 50		paid for jug	1 25
	cash sales this day	180 80		bal. on hand	907 34
		3,408 59			3,408 59
Aug. 22.	To balance on hand	907 34	Aug. 22.	By mdse. paid L. Eichels' bill of hats	511 46
	Turton & O'Rourke, am't bill	202 72		mdse. paid for eggs	3 15
	cash sales this day	112 95		E. B. Bigelow paid him	25 00
				H. C. Davidson	1 50
				balance on hand	681 90
		1,223 01			1,223 01

Page 46.

Aug. 23.	To balance on hand	681 90	Aug. 23.	By mdse. paid Mosher & Bishop's bill	95 52
	Lieut. Col. J. J. Lyon, paid in full	40 70		E. B. Bigelow, paid him	200 00
	Weil & Moore paid in full	8 25		expense pd, prem. on $5 in gold, 400	2 00
	T. H. H. Mosher paid in full	2 50		expenses paid Davidson's travelling expenses to Mr. Merriweather	5 00
	Mosher & Bishop paid in full	172 39		mdse. paid for cotton cards	1 50
	E. M. Reading paid in full	27 00		mess paid it	5 00
	Mr. Sayers paid in full	5 00		bal. on hand	718 72
	cash sales this day	90 00			
		1,027 74			1,027 74

Page 47.

Page 46.

Dr. Cash.

Aug. 24.	To balance on hand	718 72
	Dreyfus in full	4 50
	E. R. Ferris pd. on ac	17 49
	cash sales this day	139 56
		880 27
Aug. 25.	To balance on hand	781 77
	cash sales this day	143 91
		925 68
Aug. 26.	To balance on hand	906 58
	cash sales this day	327 65
		1,234 23
Aug. 28.	To balance on hand	1,055 38
	cash over	25 07
	J. Hausman on act	66 27
	cash sales this day	299 03
		1,445 75

Page 47.

Cash. Cr.

Aug. 24.	By cash for voucher of J. T. Melner & Co., am't $126 00	94 50
	mdse. paid for shoes ret'd	4 00
	bal. on hand	781 77
		880 27
Aug. 25.	By expense paid wharfage, (20,) drayage, (25,) frt. on 2 pkgs. pr. Flirt, $3 00	3 45
	mdse. paid Caleb Price; bill of 1 dozen well buckets	15 65
	balance on hand	906 58
		925 68
Aug. 26.	By mdse. paid Shulman & Goetter bill shoes $23 pr. doz., 7 doz	161 00
	expense paid for 1 faucet (25) and wharfage on goods pr. Wagley, $9 60	9 85
	H. C. Davidson paid him	3 00
	Ned paid him	5 00
	balance on hand	1,055 38
		1,234 23
Aug. 28.	By cash paid for dray tickets Saturday night	4 25
	expense J. Hausman, rent due this day to Sept. 27th	1 50
	expense E. B. Bigelow	10 00
	expense Wilson up to Aug. 26	6 00
	expense telegraph to Mobile	1 00
	balance on hand	1,274 50
		1,445 75

Extracts from book marked No. 9—Continued.

Page 48.

Aug.	29. To balance on hand		$1,274 50
	Mrs. Naftel, paid balance on rope		1 80
	cash sales this day		183 35
			1,459 65

Page 49.

Aug.	29. To E. B. Bigelow, jr		75 00
	cash pd. J. E. Mathews' voucher		13 00
	cash pd. E. B. Bigelow, jr		10 50
	cash pd. goods ret'd		95
	balance on hand		1,360 20
			1,459 65

170

Page 48.

Dr. Cash.

Aug.	30. To balance on hand		1,360 20
	To cash sales this day		316 50
			1,676 70
Aug.	31. To balance on hand		1,672 45
	To Capt. Scott paid in full		14 50
	To cash sales this day		156 50
			1,843 45

Page 49.

Cash. Cr.

Aug.	30. By cash p'd drayage on whiskey		25
	cash p'd postage stamps		50
	cash p'd premium on silver		3 50
	balance on hand		1,672 45
			1,676 70
Aug.	31. By T. S. Burbank, paid him		25 00
	T. S. Burbank, paid him		9 00
	cash paid H. J. South for voucher, $27		20 25
	mess paid it		5 00
	m'd'se p'd for loose cotton		50
	bal. on hand		1,783 70
			1,843 45

Sept.	1.	To balance on hand	1,783 70	Sept.	1.	By H. C. Davidson, paid him bal. due for 2 mo's service	41 60
		To D. Giovanni p'd in full	18 88			By E. B. Bigelow, paid him	280 00
		To Capt. Comstocks, p'd in ac	19 00			E. W. Burbank, greenbacks	800 00
		To G. Giovanni, p'd in full	29 19			E. W. Burbank, paid him in S. A. D. speci- $150 25, and prem. on $80 in gold, 40 per cent., $32; prem. on $70 25 silver, a 35 per cent., $24 58	206 83
		To A. Williamson, p'd in full	13 00			balance on hand	807 43
		To prem. on $80 in gold, $32, and $70 25 in silver, 35 per cent., $24 58	56 58				
		To cash sales this day	215 51				
			2,135 86				2,135 86
Sept.	2.	To balance on hand	807 43	Sept.	2.	By E. W. Burbank, for fr't on 20 b. c., a $9, to Pollard, $180; storage on 7 b. c., a $1, $7; drayage on 20 b. c., a. 25c, $5	192 00
		To cash sales this day	262 65			m'd'se p'd J. Hausman for 1 b. whiskey	118 25
						E. W. Burbank, p'd on ac. fr't on 120 b. c., to Pollard, f'r Greenville	600 00
						expenses p'd Wilson, $6, and wharf p'r Flirt, $3 75; faucet, 50c.; despatch, $1	11 25
						T. S. Burbank, p'd Harris & Co	9 25
						Ned., p'd him	4 00
						bal. on hand	135 33
			1,070 08				1,070 08

170½	Page 50.			Page 51.	
Dr.	Cash.			Cash.	Cr.
Sept.	4. To balance on hand	135 33	Sept.	4. By m'd'ge paid for sugar, &c., $9 50; 1 box candy, $20, and 1 p'r shoes, $3 50; 1 bale cotton, $159 60	192 10
	To E. Ponsett, paid in full	61 90		balance on hand	658 39
	To cash sales this day	653 26			
		850 49			850 49

Extracts from book marked No. 9—Continued.

Sept.	5.	To balance on hand	$658 39	Sept.	5.	By E. W. Burbank, p'd A. & F. R. R. bal. due on fr't cotton pr. Gru	$300 00
		To prem. on $20, a. 40 per cent	8 00			cash paid prem. on $89 80 in specie	32 68
		To cash sales this day	235 89			S. Bowman, p'd him	5 00
						mess, p'd it	5 00
						E. B. Bigelow, jr., p'd him	1 25
						cash p'd prem. on $5, a. 35 per cent	1 75
						m'd'se ret'd calico	2 00
						balance on hand	554 60
			902 28				902 28
Sept.	6.	To balance on hand	554 60	Sept.	6.	By C. H. May, paid him	50 00
		To J. W. Pou, bal. due	111 94			E. W. Burbank, p'd on ac. 12 b. c.	257 56
		To cash sales this day	362 70			expenses p'd fr't on bills of m'd'se pr. st'r Flirt, $125 25; bills of m'd'se pr. st'r Duke, $20 58	145 86
						cash p'd J. Mayweather voucher am't, $10	7 50
						T. S. Burbank, paid him	25 00
						expense p'd 4 drayages on salt	2 00
						cash p'd prem. on $40 in gold, 40 per cent	16 00
						balance on hand	525 32
			1,029 24				1,029 24
Sept.	7.	To balance on hand	525 32	Sept.	7.	By expenses paid fr't on flour and salt pr. A. & F. R. R. fr. Mobile, $72 25, and charges to Mobile, $59 19	131 42
		To Turton & O'Rourke on ac	175 00			cash p'd prem. on $60 in gold, a 40 per cent., $24; for voucher of J. T. Milner & Co., am't $504 60	378 45
		To H. F. de Bard de La Ben, p'd in full	124 00			E. B. Bigelow, jr., paid him	5 50
		To Edm'd Harrison, p'd on ac	207 00			mess, paid it	5 00
		To cash sales this day	243 95				

		1,275 27

171 Page 52.

Dr. Cash.

Sept. 8. To balance on hand		728 25
cash sales this day		328 01
		1,056 26
Sept. 9. To balance on hand		889 21
cash sales this day		383 40
		1,272 61
Sept. 11. To balance on hand		1,229 46
E. Ponsett p'd in full		51 75
cash sales this day		29 25

	expense paid for crackers, 15c., socks, $1 50, stams, $1	1 65
	balance on hand	728 25
		1,275 27

Page 53.

Cash. Cr.

Sept. 8. By m'dse paid Warren & Burch bill 1 box tobacco		124 80
	cash p'd H. A. Galloway, for vouchers $16 00	12 00
	cash p'd M. Mayweather, for vouchers, $15 00	11 25
	m'dse p'd for 1 keg	4 00
	Sam'l Bowman paid him	15 00
	balance on hand	889 21
		1,056 26
Sept. 9. By m'dse p'd for 1 p'r shoes, ret'd 3,00 1 box collars, 50		3 50
	expense p'd for wharfage on 4 bbls. whiskey (40) and drayage (25)	65
	T. S. Burbank p'd him	25 00
	E. B. Bigelow, jr. p'd him	3 00
	Ned p'd him	5 00
	expense p'd Wilson week's wages	6 00
	balance on hand	1,229 46
		1,272 61
Sep. 11. By cash p'd prem. on $20 gold, 40 p.c		8 00
	cash p'd J. Cacksfor voucher, $30	22 50
	Sam'l Bowman p'd him	45 00
	E. B. Bigelow p'd him	7 25
	m'dse p'd for 1 keg ($3 00) and tobacco ($8 00)	11 00

Extracts from book marked No. 9—Continued.

			Sept. 11. By expense p'd for stamps		$0 50
			balance on hand		1,478 21
		$1,572 46			1,572 46
Sept. 12. To balance on hand		1,478 21	Sept. 12. By T. S. Burbank p'd him		75 00
cash sales this day		77 10	expense p'd boy for having voucher corrected		5 00
			balance on hand		1,475 31
		1,575 46			1,555 31

172 Page 54. Page 55.

1865. Dr. Cash.		1865. Cash. Cr.	
Sept. 13. To balance on hand	1,475 31	Sept. 13. By E. B. Bigelow paid him	100 00
cash rec'd prem., on $200, gold 40 p. c., $80;		cash paid for vour., of W. Edwards 13 50	10 13
cash rec'd prem on $107 50 silver, 35 p.c., $37 62	117 62	E. W. Burbank paid him $2 00 in gold, and prem.	
cash sales this day	188 84	a 40 p. c.	280 00
		$107 50 silver, and prem. a 35 p. c	145 12
		Greenbacks	574 88
		E. W. Burbank, R. H.	200 00
		m'dse p'd copper as not sent	5 50
		T. S. Burbank p'd it	25 00
		Mess p'd it	5 00
		expense p'd drayage	25
		balance on hand	435 89
	1,781 77		1,781 77

Sep. 14.	To balance on hand	435 89	Sep. 14.	By E. B. Bigelow paid him	1 25
	A. Williamson	44 00		balance on hand	653 04
	cash sales	174 40			
		654 29			654 29
Sep. 15.	To balance on hand	653 04	Sep. 15.	By T. S. Burbank for Peyton	10 00
	cash sales this day	123 25		E. B. Bigelow, jr	75
				expense paid for stamps, 1 50, and expressage 25	1 75
				balance on hand	763 79
		776 29			776 29
Sep. 16.	To balance on hand	763 79	Sep. 16.	By m'dse p'd Weil & Moore's bill	71 51
	C. D. Whitman, paid in full	21 85		expense p'd for on m'dse pr. str. W. W. Crawford, fr. N. O.	55 80
	cash sales this day	384 67		T. S. Burbank for house	5 00
				Ned	4 00
				expense Wilson 6 00; drayage 1 50, and premium 87	8 37
				balance on hand	1,025 63
		1,170 31			1,170 31

178 Page 56. Page 57.

Dr. Cash. Cr. Cash.

Sept. 18.	To balance on hand	1,025 63	Sept. 18.	By Mr. Leek pd. bal. due him	8 20
	E. Ponsett	18 00		mdse. pd. for 5 cases ale	37 50
	Ned. Garrett	4 75		mdse. pd. for Schulman & Goetter, bill of shoes	28 75
	cash sales this day	171 30		mess paid it	5 00
				expenses pd. gas bill $8 00	8 00
				mdse. pd. for 1 pr. shoes ret'd	2 75
				bal. on hand	1,129 48
		1,219 68			1,219 68

Page 56.

Sep.	19. To balance on hand		$1,129 48
	cash sales		119 53
			1,249 01
Sep.	20. To balance on hand		974 97
	J. W. Pou pd. on ac. bill date	$29 00	
	and in silver $18, and prem. $3 40	23 40	
			52 40
	Mosher & Bishop pd. in full		13 00
	cash sales this day		122 70
			1,163 07
Sept.	21. To balance on hand		806 22
	Rossiter & Tiernan pd. in full		4 50
	A. Wise pd. in full		13 50
	E W. Burbank, ac. sales, R. H		150 07
	cash sales this day		230 42
			1,204 71

Page 57.

Sep.	19. By expenses pd. frt. on E. W. Burbank, bill goods from N. O., makd. B and D		$189 40
	expenses pd. frt. on 2 b. sugar for N. O.		6 64
	cash pd. prem. on $180 silver, 35 p. c.		63 00
	T. S. Burbank, per wife		1,000 00
	expenses paid for twine, $1 75, stamps, 50 cts., and change ret'd, 25		2 50
	5 loads drayage		2 50
	balance on hand		974 97
			1,249 01
Sept.	20. By Chas. Swift		70 00
	cash pd. prem. on $18 at 30 p. c.		5 40
	T. S. Burbank paid Mrs. Jackson		50 00
	mdse. paid L. Marx, bill goods		72 00
	mdse. paid Mosher & B., bill goods		155 80
	T. S. Burbank		2 00
	expenses pd. wharfage		1 65
	balance on hand		806 22
			1,163 07
Sept.	21. By W. E. Burbank paid R. H		362 00
	T. S. Burbank paid wife		10 00
	mdse. pd. for 1 bbl. potatoes, $8 00, 1 pr. shoes, $2 00, and butter, $1 50		11 50
	expenses paid wharfage pr. clipper, $8 00, frt. on whiskey $1 00, and 1 drayage, 25 cts.		9 25
	balance on hand		811 96
			1,204 71

Page 58.

Dr.	Cash.		
Sept.	22. To balance on hand		811 96
	Levy, Robinson & Co		50 00
	White & Jones on ac	$67 00	
	silver, $20, and prem. at 35 p. c	27 00	
			94 00
	cash rec'd on prem. of $400, at 44 p. c		176 00
	cash sales this day		246 32
			1,378 28
Sept.	23. To balance on hand		525 78
	Mrs. Bragg pd. on ac. bill		250 00
	cash sales this day		221 25
			997 03
Sept.	25. To balance on hand		958 28
	E. Ponsett paid in full		28 12
	H. F. De Bardeleben		70 00

Page 59.

Cr.	Cash.		
Sept.	22. By cash paid prem. on $400 in gold at 44 p. c		176 00
	Floyd & Johnson paid them in greenbacks	$75 00	
	on ac. cotton and in gold	400 00	
			475 00
	cash pd. prem. on $20 at 35 p. c.	7 00	
	cash pd. prem. on $10 at 35 p. c.	3 50	
	cash pd. prem. gold $5 at 40 p. c.	2 00	
			12 50
	Floyd & Johnson paid prem. on $400 in gold for them, at 44 p. c		176 00
	mdse. pd. for shoes purchased, $7 50, pd. for shoes ret'd $5 50		13 00
	balance on hand		525 78
			1,378 28
Sept.	23. By Saml. Bowman pd. him		10 00
	cash pd. for Geo. Thomas, vour. $15		12 00
	Ned paid him		5 00
	mess paid it		1 00
	expenses pd. Wilson for 1 wk. work		6 00
	redemption of tickets		4 75
	balance on hand		958 28
			997 03
Sept.	25. By mdse. paid Munter bill, brogans		150 00
	mess paid it		5 00
	mdse. paid for 1 case ale		7 00

Extracts from book marked No. 9—Continued.

Sept.	25.	To cash sales this day	$136 15	Sept.	23.	By cash for vour. of T. J. Steele, $55 00	$41 25
						balance on hand	989 30
			1,192 55				1,192 55
Sept.	26.	To balance on hand	989 30	Sept.	26.	Balance on hand	1,509 04
		A. F. Ellsberry paid him	126 09				
		cash sales this day	393 65				
			1,509 04				1,509 04
175		Page 60.				Page 61.	
Dr.		Cash.				Cash.	Cr.
Sept.	27.	To balance on hand	1,509 04	Sept.	27.	By mdse. p'd S. A. Meertief, bill glass, putty, &c.	50 00
		cash sales this day	204 28			expense p'd fr't pr. Flirt, on 4 b's whiskey	13 38
						mdse. p'd for shellac, $4 00; yarn, $3 25; axe, $2 50; jug, 30c.; and nails, 25c.	10 30
						expense p'd Wilson, $2 00; and drayage, $1 00; tickets, $1 50; and prem. on $4 80, $1 68	6 18
						balance on hand	1,633 46
			1,713 32				1,713 32
Sept.	28.	To balance on hand	1,633 46	Sept.	28.	By cash p'd prem. on $20, gold, 43 p. c.	8 60
		cash $5 in gold not redeemed	5 00			labor p'd Peter 2 da's work	2 00
		cash $19 80 in silver not redeemed.	19 80			mess p'd it	1 50
		cash sales this day	137 47			Ned p'd him	2 00
						balance on hand	1,781 63
			1,795 73				1,795 73

Sept.	29.	To balance on hand	1,781 63	Sept.	29.	By mdse. p'd for 2 bales paper stock	40 00
		A. Williamson p'd in full	23 50			mdse. p'd for honey, $1 50; and shoes ret., $2	3 50
		cash sales this day	109 85			E. B. Bigelow, jr, p'd him	11 40
						T. S. Burbank p'd him	5 95
						Griffin, Porch & Co. p'd fr't on 1 case mdse. for Greville	2 50
						expense p'd wharfage on 4 bs. whiskey	40
						cash p'd J. H. Ryan for 2 vour	23 25
						balance on hand	1,827 98
			1,914 98				1,914 98
Sept.	30.	To balance on hand	1,827 98	Sept.	30.	By mdse. p'd Rossiter & Tiernan, bill mdse.	135 57
		E. Poncet p'd in full, (square man)	24 00			mdse. ale, $14 00; and funnel and needle, $1 00	15 00
		cash sales this day	222 20			T. S. Burbank	3 60
						E. B. Bigelow	5 70
						Ned	2 00
						expense p'd 2 da's' labor	2 00
						balance on hand	1,910 31
			2,074 18				2,074 18

176 Page 62. Page 63.

Dr.		Cash.				Cash.	Cr.
Oct.	2.	To balance on hand	1,910 31	Oct.	2.	By Samuel Bowman	20 00
		Weil & Moore	11 50			mdse. p'd Weil & Moore's bill for 42¼ yds. prints	25 35
		Mr. Moore	2 80			expense p'd for candles, 25c.; drayage, 25c.; shoes, $2 25; and ticket, 50c.	3 25
		H. F. de Bardeleben	142 00			balance on hand	2,104 66
		cash sales this day	86 65				
			2,153 26				2,153 26

Extracts from book marked No. 9—Continued.

Oct.	3.	To balance on hand	$2,104 66	Oct.	3.	By mess paid it	$1 00
						Weil & Moore loaned them	400 00
						T. S. Burbank	6 00
						balance on hand	1,697 66
			2,104 66				2,104 66
Oct.	4.	To balance on hand	1,697 66	Oct.	4.	By T. S. Burbank	25 00
		Weil & Moore ret'd money loaned	400 00			Floyd & Johnson adv'd on cotton	120 00
		Burbank loaned the store	1,000 00			Mr. Sears p' in full	0 00
		Burbank loaned the store, (gold)	800 00			cash paid prem. on $200, gold, @ 43½ p. c.	88 00
		cash rec'd, prem. on $2,500, gold, 44 p. c.	1,100 00			cash paid prem. on $750, gold, @ 43½ p. c.	326 25
		Mr. Sears paid in full	4 70			cash paid prem. on $500, gold, @ 44 p. c.	220 00
		Lehman, Durr & Co.	57 00			cash paid prem. on $218, gold, @ 44 p. c.	95 92
		cash rec'd, prem. on $220, at 37 p. c.	81 40			Floyd & Johnson adv'd on cotton in gold coin	2,500 00
						Floyd & Johnson p'd prem. on $2,500, gold, @ 44 p. c., adv'd them	1,100 00
						T. S. Burbank ret'd him	100 00
						Harry (drayman) p'd his license	31 00
						expense p'd for 2 da's' labor	2 00
						expense p'd for 50 2c. stamps	1 00
				Oct.	6.	By T. S. Burbank ret'd him	200 00
						T. S. Burbank ret'd him	100 00
						balance on hand	232 59
			5,140 76				5,140 76

177 Page 64. Page 65.

Dr.	Cash.		Cr.	Cash.	
Oct.	6. To balance on hand	232 59	Oct.	6. By expense pd. one week's advertis. in Mail, of dissolution	4 00
	E. M. Reading, paid in full	17 25		T. S. Burbank, paid A. Wise	8 00
	A. Wise, paid in full	26 00		expense pd. for redeeming ticket	50

	Capt. Scott, paid in full		12 00
	Tucker & Denson, paid in full		144 00
9	T. Bement, paid in full		119 05
			550 89

	Sam'l Bowman		20 00
	Ned		5 00
	T. S. Burbank		119 05
	expenses paid wharfage and drayage on Pitcher's goods		70
	expenses paid advt. dissolution in advert		4 00
	Ned, paid him		25 50
Oct. 11.	W. W. Bigelow, paid him bal. due on wages		192 71
	Balance on hand		171 43
			550 89

Oct. 14.	To balance on hand		171 43
	Mr. T. C. Bragg		49 00
	T. S. Burbank, loaned us		1,000 00
" 23.	Wm. F. Pitcher, paid in full		1,404 38
" 21.	Edm'd Harrison		1,165 00
" 18.	Rob't Turton		150 00
" 20.	Vouchers am't collected from Capt. Drew		116 83
" 20.	" (pennys) " " " "		86 00
" 23.	E. B. Bigelow		79 00
" 27.	G. A. Johnson		21 00
	G. W. Floyd		5 00
" 31.	T. S. Burbank loaned us		1,000 00
" 31.	E. Beebe & Co		108 50
" "	T. S. Burbank loaned us to pay F. & J		800 00
	" " " " "		480 00
	" " " " "		20 00
	" " " " "		915 98
			7,572 32

Oct. 14.	By E. B. Bigelow, paid him		79 00
	Expense paid for repairing gate		4 00
Oct. 16.	expense paid for despatch to E. W. B		3 50
	Sam'l Burbank		15 00
Oct. 20.	T. S. Burbank, returned him		1,000 00
	Sam'l Bowman		5 00
Oct. 21.	Sam'l Bowman		5 00
Oct. 13.	Floyd & Johnson, (greenbacks)		1,910 00
" 21.	Floyd & Johnson, "		100 00
21.	E. B. Bigelow, jr		200 00
26.	Floyd & Johnson on cotton, in gold		800 00
96.	Cash paid premium on $800		480 00
26.	Cash paid Floyd & Johnson, greenb'k		20 00
26.	Cash paid Floyd & Johnson, greenb'k		915 98
31.	" gov't tax F. & J. cotton, 34,166, 2d		685 40
"	" Insurance 63 b c		39 50
"	" Govt. tax B. & B. 5 b c 2,223 2d		44 70
Nov. 1.	wharfage on 64 b c, B. & B.		9 60
" "	despatch to E. W. B		3 25
	balance on hand		1,252 32
			7,572 32

Extracts from book marked No. 9—Continued.

178 Page 66.
Dr. Cash.

Nov.	5.	To balance on hand	$1,252 32
		E. Ponsett paid	87 50
		Lehman Marx paid in full	26 25
		Harry, (drayman)	17 00
		Col. Weaver paid in full	18 80
		R. J. Steele, voucher	55 00
		T. O'Rourke	17 00
			1,467 87
Nov.	12.	To balance on hand	1,320 17
	14.	A. Robinson & Co	50 00
	22.	A. Woodleaf on loan	5 00
	"	Ned Gaunt on ac	3 00
	27.	J. W. Pou	72 00
	"	Price, Francis & Co	117 25
	"	E. Ponsett	100 00
	29.	R. Turton	10 00
	"	Bloom	9 00
	"	Ale bottles	14 55
	"	Loose cotton	21 00
Nov.	3.	G. Giovanni on account	125 00
		A. N. Robinson & Co	100 00
			1,947 73

Page 67.
Cash. Cr.

Nov.	7.	Expense hauling 68 bales cotton	$17 00
	8.	" storage 68 b-c, Lehman, Durr & Co	102 10
		" wharfage 4 b-c, F	60
		" discount on Pitcher's am't, $1,400, a 2 p.c	28 00
		" insurance, on cotton, Lehman, Durr	
	11.	Balance on hand	1,320 17
			1,467 87
Nov.	14.	Paid E. B. Bigelow	225 00
	22.	Paid E. B. Bigelow	200 00
	22.	" T. S. Burbank ret'd loan	1,000 00
	24.	" for redemption of tickets	1 50
	"	" lent E. W. Burbank for col	15 00
	27.	" E. B. Bigelow, Ponsett	100 00
	"	" Montgomery Mail	50 00
	"	" Hauling bbls	75
Dec.	8.	Paid freight on 5 bbls. and 2 boxes	21 00
	"	" wharfage and drayage	3 25
	8.	" storage	1 50
	"	" E. B. Bigelow, (Turton)	10 00
	"	" " " (Bloom)	9 52
	"	" " " (cotton)	21 00
	"	" " " (Giovanni)	125 25
	"	" " " (N. N. Robinson & Co	100 00
		Bal. on hand	63 96
			1,947 73

Page 68.

Cash.

Dr.			
Dec.	19.	To balance on hand	63 96
"	2.	Saffod on ac	4 60
"	"	Col. Hamson on ac	10 00
			78 54

Page 69.

Cash.

			Cr.
Dec.	12.	T. S. Burbank	4 60
	"	E. B. Bigelow	10 00
	13.	E. B. Bigelow	21 30
	"	E. B. Bigelow, silver	10 67
	"	T. S. Burbank	10 67
	"	T. S. Burbank	21 30
			78 54

179 *Extracts from book marked No. 10.—Filed in evidence February 27th, 1866.*

E. W. Burbank, New Orleans.

Page 38.

Dr.				
1865.				
June	18.	To cash	11	4,000 00
	25	cash	25	1,500 00
July	7.	cash	25	1,000 00
	7.	cash	27	300 00
	10.	cash	27	2,500 00
	10.	cash	27	500 00
	11.	cash	27	200 00
	11.	cash	29	1,000 00
	14.	cash	29	200 00
	14.	cash	29	400 00
	14.	cash	31	951 75
	21.	cash	31	1,293 50
	21.	cash	31	140 88
	21.	cash	33	89 64
	22.	cash		

				Cr.
1865.				
June	19.	By m'd'se	46	4,867 62
	19.	m'd'se	46	112 50
	19.	m'd'se	46	7,081 89
	19.	m'd'se	46	2,275 52
	19.	m'd'se	46	6,763 61
	19.	m'd'se	46	625 78
	19.	m'd'se		300 00
July	10.	J. K. Whitman	102	170 00
June	10.	m'd'se	102	625 98
	10.	m'd'se	102	960 40
	12.	m'd'se	102	258 23
	14.	m'd'se	102	268 50
	17.	m'd'se	102	2,142 55
	19.	m'd'se	102	3,140 61
	20.	m'd'se		

Extracts from book marked No. 10—Continued.

July	22.	To cash	33	$37 12	June	24. By m'd'se	102	$250 25
	25.	cash	33	150 00		26. m'd'se	102	1,514 00
	26.	cash	35	200 00		29. m'd'se	102	21 00
	28.	cash	33	1,311 01	July	5. m'd'se	102	3,124 09
	28.	cash	35	350 30		12. m'd'se	102	3,898 74
Aug.	9.	cash	41	1,000 00		24. cash	32	501 15
	9.	bal. to new ac		25,189 20		24. cash	32	342 50
						24. m'd'se	113	1,047 01
						27. m'd'se	118	253 05
						28. m'd'se	118	1,005 01
					Aug.	9. m'd'se	136	969 34
				42,313 40				42,313 40
Aug.	14.	To cash	43	2,000 00	Aug.	9. By bal. from old ac		25,189 20
	21.	cash	45	2,500 00		25. m'd'se	159	1,676 51
Sept.	1.	cash	49	800 00		25. m'd'se	159	102 00
	1.	cash	49	206 83	Sept.	1. m'd'se	166	2,166 35
	2.	cash	49	192 00		4. m'd'se	169	1,479 02
	2.	cash	49	600 00		8. m'd'se	174	356 25
	4.	cash	51	300 00				
	6.	cash	51	257 56				
	8.	bal. to new ac		24,112 94				
				30,969 33				30,969 33

Page 39.

Dr. E. W. Burbank, Cr.

	13.	To cash	55	1,000 00	Sept,	8. By bal. from old ac		24,112 94
	13.	cash	55	200 00		18. m'd'se	186	580 50
	20.	m'd'se	188	625 78		20. m'd'se	188	1,426 62

Sept.	20.	error	188	6	25
	23.	trans. J. K. W.	63	809	00
		m'd'se, S. A. D.	71	2,990	92
	21.	cash	57	362	00

180 Page 74.

1865.

June	12.	To m'd'se		258 00
	19.	cash		4,000 00
		m'd'se		108 40
July	3.	m'd'se		30 00
		m'd'se		168 00
	12.	m'd'se		74 90
	17.	m'd'se		195 00
	17.	m'd'se		16 50
	22.	m'd'se		82 50
	22.	cash		8,001 88
		cash		2,611 01
		cash		1,000 00
		cash		4,132 50
		cash		150 00
		cash		1,428 81
		cash		207 00
		cash		866 50
		m'd'se, S. A. D.		2,290 92
		m'd'se		1,568 83
		m'd'se		1,000 00
		m'd'se		192 00
		m'd'se		900 00
		m'd'se		257 56

Sept.	20.	m'd'se	188	85	35
	23.	m'd'se, G. P. & Co.	41	1,901	96
	22.	m'd'se	191	312	37
	21.	cash	57	150	07
	28.	m'd'se	199	388	50
Oct.	7.	m'd'se, E. B. B.		425	55

1865.

May	16.	By m'd'se	4,867	62
	16.	m'd'se	425	55
	17.	m'd'se	112	50
	17.	m'd'se	101	50
	17.	m'd'se	2	00
	27.	m'd'se	7,081	87
	27.	m'd'se	2,275	52
June	3.	m'd'se	6,763	61
	6.	m'd'se	1,005	01
	10.	m'd'se	625	78
	12.	m'd'se	899	09
	13.	m'd'se	1,130	40
	14.	m'd'se	52	23
	17.	m'd'se	258	50
	17.	m'd'se	2	50
	19.	m'd'se	211	00
	21.	m'd'se	2,142	53
	21.	m'd'se	3,140	61
	22.	m'd'se	1,426	62
	26.	m'd'se		10
	24.	m'd'se	305	95
	26.	m'd'se	1,514	00
	27.	m'd'se	2	50
	29.	m'd'se	1	00
	29.	m'd'se	6	60
	29.	m'd'se	21	00
	30.	m'd'se		50
	30.	m'd'se		10
	31.	m'd'se		50

Extracts from book marked No. 10—Continued.

July	1.	m'd'se	$54 33
	3.	m'd'se	342 50
	7.	m'd'se	2 00
	8.	m'd'se	122 00
	10.	m'd'se	50
	11.	m'd'se	3,124 09
			38,021 95

Dr.		Cr.			
To amt. f'nd	30,220 31		By am't f'nd	74	38,021 05
balance	23,088 11	July	14. m'd'se		3,237 92
			14. m'd'se		663 82
			19. m'd'se		139 70
			20. m'd'se		53 50
			25. m'd'se		820 56
			25. m'd'se		31 32
			26. m'd'se		6 00
			27. m'd'se		254 88
			28. m'd'se		501 15
		Aug.	2. m'd'se		215 13
			4. m'd'se		363 27
			4. m'd'se		599 07
			5. m'd'se		102 00
			10. m'd'se		15 00
			10. m'd'se		320 25
			18. m'd'se		1,808 14
			18. m'd'se		25 00
			20. m'd'se		824 63
			22. m'd'se		1,479 02
			22. m'd'se		113 35
			26. m'd'se		356 25
		Sept.	1. m'd'se		388 50

			53,308 42
	6.	m'd'se	2 25
	8.	m'd'se	189 50
Sept.	8.	m'd'se	393 00
	12.	m'd'se	85 35
	15.	m'd'se	397 95
	15.	m'd'se	1,901 96
			53,308 42

181 *Extracts from E. B. Bigelow's private memorandum b'k marked N.—Filed in evidence Feb'y 20th, 1866.*

57 bales cotton ship'd to E. W. Burbank, N. O., to be sold for our account.

Article.	Marks.	Of whom purchased.	Date.	Weight.	To whom sent.	Conveyance.
1 b. cotton..	A—1	M. W. Street...	June 16..	480	.....	St. Magnolia.
1..do.....	A—2	J. H. Roberts...	....do....	554	.....	
1..do.....	A—3	..... do.....	....do....	.....	.....	
1..do.....	A—21					
1..do.....	F [a] L					
2..do.....	F L—1 & 2	S. M. Hardin...	June 19..	1,125	.....	
2..do.....	F L—2 & 3	Wm. Johnson ..	19..	932	.....	
3..do.....	A—5, 6, & 7	W. B. Vaugh...	19..	1,430	.....	
20..do.....	A—8 to 10	B. J. Woods....	19..	9,330	.....	
1..do.....	A—29	B. Y. Jones	19..	460	.....	
23..do.....	M—1 to 23					
1..do.....	No mark.	Lost.				

57 bales of cotton shipped to Sloan & Co., New York, care Griffin Porch & Co., Mobile.

Article.	Marks.	Of whom purchased.	Date.	Weight.	To whom sent.
19 b. cotton..	B—1 to 19	Sundry purch's.	June 19..	.....	Sloan & Co., care G. P. & Co., St'r Flirt.
3..do.....	B—20, 21, 22	Anna Murphy..	20..	1,500	
35..do.....	C—1 to 35	Maj. D. S. Arnold.	20..	.....	

42 bales of cotton, shipped to Sloan & Co., N. Y., care Griffin, Porch & Co., Mobile.

Articles.	Marks.	Of whom purchased.	Date.	Weight.	To whom shipped.
5 b. cotton.	B & B—38 to 42	B. M. & H. Levy...	June 20	2,466	Sloan & Co., care of G. P. & Co., St'r Coquette.
37..do.....	1 to 37	.....do.....	...do...	18,123	

9 bales cotton and 2 bales paper stock, shipped to care Griffin P. & Co.

Articles.	Marks.	Of whom purchased.	Date.	Weight.	To whom shipped.
3 b. cotton..	B	N. & E Fuller.....	June 28	895	
1...do.....	D—1	W. W. Ringstaff...	30	547	
1...do.....	D—2	P. J. Allsopp.....	30	480	
1...do.....	D—3	Wilson Goetter....	July 1	530	
1...do.....	D—4	Tho's Boyett.....	6	472	
1...do.....	D—5	Mrs. Brooks.....	7	423	
2*..do.....	[P]	Jas. Gilmer.....	8	775	
1...do.....	D—6	Loose cotton.....	8	.....	Baled.
1...do.....	D—7	Ex gov't warehouse	8	.....	
2*..cotton ..	—P	Jas. Gilmer	10	.....	
1*..cot. ends	....	Jas. Gilmer	10	.....	
1 b. cotton..	D—8	Eliza Race.....	11	520	
2...do.....	D—9 & 10	S. B. Bogus.....	Aug. 14	843	
1...do.....	D—11	S. F. DeBardeleben.	.....	.....	
3...do.....	12, 13, 14.	.....	.....	.....	

* Paper stock.

Statement of the evidence.—Filed Nov. 14th, 1866.

182 United States circuit court.

E. B. BIGELOW
vs.
E. W. BURBANK & T. S. BURBANK. } No. 3,686.

MONDAY, *Feb. 19th*, 1866.

Testimony for pl'ff.

E. W. Burbank to Mr. Bright:

I saw a file of books lying on my secretary. Never looked into them, or any books of Burbank and Bigelow, but merely saw them. Never looked into them until I opened them in court. Never saw a cotton book of B. & B. Never saw T. S. B's private memorandum book, to my knowledge. May have seen the book when purchased. Believe it was a fac simile of cotton weighing book, such as is used in cotton presses. It was purchased at Fitzwilliams's. Was leather colored. Could not say if it had anything on the back.

183 Never examined inside of it. All I know is that my brother sent from Montgomery for such a book. Could not say there was printed "Burbank & Bigelow" on the back. Never looked at B. & B.'s books. B. & B. were at my office about a week. Brother had no books of B. & B. at his house to my knowledge. Never heard my brother say where the books of B. & B. were. I think they were at my office. Never asked by brother for cotton book of B. & B. Never needed it to find out what cotton was purchased. Never heard Bigelow ask me or my brother for that cotton

book. All the books that my brother had at the store Mr. Bigelow took away, so my bookkeeper says. I do not know it personally. My brother S. N. said he saw him. The book in question was bought at Fitzwilliams's, and charged to me. My bookkeeper may have bought it. Bought stationery for the house of B. & B. of Fitzwilliams. Never saw any book entries substantially like those shown by Mr. Bright. No recollection of ever seeing them. Never looked into B. & B.'s books till I saw them in court.

To Judge Whitaker:

184 Purchased the private memorandum book for T. S. B. about the 26th June. The bill was dated June 26th. Sent it some time after—soon after, (could not say when,) to Montgomery. My house was accustomed to purchase stationery of Fitzwilliams. Did not see Bigelow carrying the books out of my store. My brother S. N. said, "There goes Bigelow with the books under his coat. I see one sticking out." This was three or four days before the commencement of this suit. My bookkeeper said, Bigelow told him he wanted to show some entries to his wife. Don't know if he took all the books of Burbank & Bigelow. Never have seen the books since, until I saw them in court.

T. S. Burbank to Mr. Bright:

Am brother of E. W. B. My private memorandum book was similar to the book shown. Book shown not the book, but an exact copy of it. Do not know where the original is. I last saw it on the desk in my brother's office. Don't know where it is now. There were many entries in it. Some account of private sales of my own in it. No cotton entries of the firm in it. Think my brother
185 E. W. never saw it. He might have seen it when bought. Think he never saw it when brought back from Montgomery. He did not know what was in it. Bigelow never asked me for it that I remember. Never told Bigelow that it was at my house. I first heard of that from Bigelow in court. The cotton entered in the book was for E. W. B. Never rendered him an account of what it contained, for want of the book. My brother never asked me for the account. Business of settlement was stopped for want of the book. I am accountable to my brother for moneys laid out. I need the private memorandum book. My brother does not need it. I bought my stationery of my brother. He bought it of Fitzwilliams. The firm B. & B. never had any cotton book, to my knowledge. I had none myself with the words "cotton book" printed on the back, nor the firm either. I had a book I called a memorandum book. Might have had a smaller one before I got the larger one. What makes me think I might have had one is because I am doubtful about some previous purchases of cotton. There was no "cotton book" in the store at Montgomery. I had myself a book like the one in
186 court, a private book.

To Judge Whitaker:

I cannot make up my accounts for want of books. Once sent a partial statement of account up to a certain date to my brother.

Other cotton than this in controversy, recorded in this book, in all, about 1,200 bales—purchased for E. W. B. Acted myself for my brother as his agent in the purchase of cotton. I, and not the firm. Book contained all the entries of cotton purchased for E. W. B. The said book was shipped by me, with the other books, to my brother E. W. B. Bigelow and I spent several days together in New Orleans going over the books. Have not seen them since at store. I did not see them taken away from my brother's store. I saw them next in court. There was a ledger, cash book, blotter, and possibly a receipt book, I am not certain, and the private memorandum book. I have not seen them since, till I saw them in court.

To Mr. Bright:

Think the memorandum book was taken with the other books
187 from E. W. B's store, because I used it with the books of the firm to prepare for settlement with my brother. Had all the books on my brother's desk about ten days, day after day, and my papers, settling with my brother and Bigelow.

E. B. Bigelow:

I know E. W. & T. S. Burbank. Came to N. O. in April or May last as a sutler, with documents from military authorities, General Smith and others, permitting me to take goods to Alabama. Went to store of Griffin & Porch, asked them to go in with me. I wanted money. I wanted to buy cotton. Griffin introduced me to T. S. B., who, he said, was anxious to go into the cotton business, and through him I became acquainted with E. W. B. I had passes to take persons over. Formed partnership with T. S. B. Business was general merchandise, purchasing cotton, sheeting, osnaburgs, yarn, and country produce. The firm had a cotton book like the one in court, with "cotton book, Burbank & Bigelow" printed on the side. Bur-
bank saw it continually. Saw him refer to it. It was kept in
188 the store, and locked up at night in the safe. Burbank never made any entries in it. Bookkeeper Bowman did that. He is dead. The paper in court (shown by Mr. Bright) is a copy of entries in this book. In the month of September, my brother, who was a clerk in our store from the beginning, apprehending some difficulty in settling with T. S. B., copied the book. On the 1st of December, T. S. B. brought the cotton book and other books, except the receipt book, with his family to N. O. About the 5th December, I found the receipt book and some letters in the desk in the store. I bought them here and left them at the of office of E. W. B. Asked T. S. B. for cotton book in N. O. A misunderstanding arose between us about two bales of cotton. He said the cotton book was up at his house. I never saw the book at E. W. B.'s store. Took only the three books in court from E. W. B.'s store. I took them because they contained account of cash paid for cotton bought for B. & B., and dates. This cotton was paid for by B. & B. B. & B. shipped 57 bales to E. W. B.; 99 bales to G. P. & Co., Mobile; 9
bales to same; paper stock to care of G. P. & Co.; 5 bales of
189 osnaburgs, and 1 bale of sheeting. I came here in Dec. to

settle the business of the concern. T. S. B. was then in Mobile. Asked E. W. B. if he had received account sales of 165 bales cotton? He said he had. I wanted to know, I said, because I claimed an interest therein. He said, he did not know that I claimed an interest. T. S. B. on his arrival said he would leave it with E. W. B., and any arrangement E. W. B. would make with me would be satisfactory to him. I weighed some of the cotton. It weighed 490 lbs. each bale, and was worth 40 cts. in N. O., 45 cts. in N. Y. Paper stock was worth $35 to $40 a bale. Osnaburgs were, 2,754½ yards, worth 35 to 50 cts. Sheetings were 714 yards. Don't know what it was worth. Was marked B. & B. and shipped so. Letters of instruction to E. W. B. were sent by B. & B., directing him to ship to N. Y., draw on it, and credit it to the firm. Instructions were to sell osnaburgs here. It was bought by B. & B. with their money. The books will show this. (Shows them to the jury.)

190 We commenced the 27th of May at Montgomery. I put into the concern from $5,000 to $6,000, and drew out about $1,500. Document presented is in the handwriting of Mr. Bowman, brother-in-law of Burbank. (This is the paper dated Aug. 8th.) I asked T. S. Burbank, why he was having this drawn up. He said, he was seeing how much the merchandise had made. The entry of $14,043 48 (on page 135 of blotter) is not entered up in the ledger, but put in out of course on the blotter. The paper presented was made up in September, (the paper dated Aug. 8th.) The letters of E. W. Burbank to the firm were addressed, except in one instance, to T. S. Burbank.

To Judge Whitaker:

The document (paper dated Aug. 8th) was made up in September.

TUESDAY, *Feb. 20th*, 1866.

E. B. Bigelow to Judge Whitaker:

Was a sutler in the 16th army corps before going into partnership with T. S. Burbank. Had been interested in sutlerships about

191 two years. Continued a sutler till August last. The partnership commenced in May, about the 15th or 20th. The first shipment was purchased of E. W. Burbank, and was about $5,000. I had about $425 of goods of my own. We had in June, by purchases from E. W. Burbank, about $50,000 worth, more or less. T. S. Burbank put in no money at the start. He did, however, in September, some thousands of dollars. The amount appears on the books. He has credit for it. Don't know where he got it. Bought goods all along of E. W. Burbank, in May, June, July, August, and September. Don't think their amount would much exceed $50,000, say about that. I put in between $5,000 and $6,000 early in June. Drew out in June, can't tell how much. The books will show it. (He referred here to books.) On 31st May I drew out $350; on 30th June, $1,500; on 19th June, $1 00; 20th, $1 95, and so on. At the same time I drew out goods, checks, &c., $1 00, $1 50, and $296 59. When the partnership wound up, we divided $6,000 in goods. The

firm trusted the artillery brigade, taking orders for fifteen
192 hundred and odd dollars. Not all of these we collected. I took these orders to the pay table to collect. Sent the balance to battery commanders to be charged on final statements, by order of Gen. Smith. These orders were charged to me to collect. Did not collect them all. Returned the rest to the firm's safes; that is, a majority of the orders. Used the $1,500 drawn June 30th for my own private use. T. S. Burbank never took out any of these orders. The orders were given to the captains of batteries, in accordance with Gen. Smith's orders. Don't know how much has been collected of them. Don't think half has been collected. I drew out a few dollars for checks from the concern, and $350 for my own use; on June 5th, $187 50, orders to collect. Did not keep these books myself. When we went to Montgomery, my brother kept them, *i. e.*, from three days after we opened at Montgomery until about the time when Mr. Bowman came. Made entries when we commenced on sheets of foolscap pinned together. I made some entries in the blotter, perhaps; may be in the ledger.
193 Up to June 8th we had a little blotter. Mr. Bowman and I copied these entries into the books in court. The $1,500 I took from the safe to take to Wisconsin; another time I took $350; this was in May. I had not then put in any money. I had loaned the money to a man who did not repay it, and it was charged to me. T. S. Burbank put in no money in June. Burbank & Bigelow paid E. W. Burbank for the goods got at that time. There may be something due E. W. Burbank for these goods I claim. E. W. Burbank gave Burbank & Bigelow credit for $14,043 10. Burbank & Bigelow owe E. W. Burbank about $3,000. T. S. Burbank has assets of the firm to pay this. There were $6,000 of goods left at Montgomery at the dissolution of the partnership; I had half, and T. S. Burbank had half. I got about $1,800 in vouchers from T. S. Burbank when I came to New Orleans; $4,300 of vouchers belonged to the firm then. He gave me about $1,800 worth, and retained the balance. Don't know why he brought them here. The books and they were brought here for settlement. Have not settled with E. W.
194 Burbank. Had conversation with E. W. Burbank when I came over here; told him I had a claim against him for half interest in cotton. I never said I had no claim against E. W. Burbank. Bowman made the entries in the cotton book; the entries in the cotton book were not made at the dates of purchase; the entries had reference to shipments not made at dates of shipment. Don't know where the cotton book is; I have not seen it since I saw it in Montgomery in December. Other cotton than this in controversy was shipped to E. W. Burbank; one lot of 63 bales, another of 5, and another of 2, he gave as account sales to Burbank & Bigelow for 68 bales; gave us credit for this. It is not the cotton claimed here. No other cotton than these lots were shipped by Burbank & Bigelow. Don't know whether T. S. Burbank shipped any other; think he did. E. W. Burbank received the balance of the proceeds of this cotton in controversy after deducting $14,043 10. E. W. Burbank received goods from Burbank & Bigelow in November

and December to sell, Yankee notions, dried apples, &c., from
195 Montgomery. The division took place in October, about the 5th. The Yankee notions, &c., were sent to E. W. Burbank by Burbank & Bigelow, and not by T. S. Burbank. I had $5,000 or $6,000 in June, which went into cotton. Drew out $1,500 on 30th June. Took this money from the safe; it was derived from the sale of goods. Burbank & Bigelow gave Harrison, of Montgomery, $4,000 to buy cotton; he bought some, and the balance he returned. The $4,000 came from sales of goods in June. The store never borrowed money of E. W. Burbank. Don't know if E. W. Burbank sent money to buy cotton in June; he sent us goods and postage stamps. Forty-two bales sent to E. W. Burbank were marked B. & B. I marked it myself; 57 bales were sent to E. W. Burbank to reship to New York. Don't know if the cotton sent to Griffin & Porch was to be reshipped.

To Mr. Bright:

T. S. Burbank hired a box at the post office, and he gave the key to Bowman, with directions to get the letters himself. Don't
196 know at what date. I got my letters through him.

To Judge Whitaker:

Don't know when the box was taken. We had no mails there till about the 1st July. Previously we sent our letters by R. R. messenger.

W. W. Bigelow to Mr. Bright:

Am brother of plaintiff. Know E. W. & T. S. Burbank. Burbank & Bigelow were engaged at Montgomery in selling goods, buying cotton and country produce. The firm had a cotton book; it was known as such by entries. On the cover was "cotton book" and name of firm. "Cotton book" was printed with a pen, and the name of the firm was head of printed bill posted on. The book had a russet leather cover; was six or eight inches by four, and half an inch thick; have examined it. It contained entries of cotton purchased and shipped by the firm; was similar to the book shown in court. I made a copy from it at the store the last of September. I have the original copy. It is headed "Shipped for our account."
197 (Shows to jury small tuck memorandum book.) Nothing else in this book copied from the cotton book. There is an item in this copy referring to cotton which is not in suit. This is an entry of 5 bales, (explained to be part of the 68 bales shipped to E. W. Burbank on joint account.) T. S. Burbank dictated to me, and directed me to write to E. W. Burbank that he shipped to him a lot of cotton to ship to New York, and to draw on it. A letter about osnaburgs was sent to E. W. Burbank, advising of the shipment of cotton, and another letter about other business. I think I wrote three letters in all. E. W. Burbank addressed his letters to T. S. Burbank. They were opened by no one else. I have been present at purchase of cotton by firm. Some was paid for in goods; some in money. T. S. Burbank urged the shipment from Montgomery, as

there was too much risk there, the cotton not being insured. Think I heard T. S. Burbank say he had some bonds he could sell, if he desired to hold the cotton. The goods were bought of E. W. Burbank on 30 days time. Had no conversation with E. W.
198 Burbank about the profits my brother would make. I came from Montgomery over here to collect some accounts. I gave him a letter from T. S. Burbank. He asked how the firm was doing, and said they would make more money in buying cotton than in selling goods. The firm bought cotton at first for 10 cents, and afterwards for 18.

To Judge Whitaker:

I begun business at Montgomery with the firm a day or two after the store was open, say the last of May or first of June. The book shown is similar to the cotton book. Don't know who put the printing on the cotton book; Mr. Bowman, I suppose. He was brother-in-law of Burbank. He came to Montgomery in the early part of June. I kept the books before Bowman came. We had no books; kept accounts on foolscap paper; my brother copied them into the books afterwards. The book-keeper commenced June 12th. Don't know when the entries in the cotton book were made; don't
199 recollect that I made the entries. They were made mostly by Bowman in his handwriting. He made them all. Don't know the dates when he made them. Don't know who advanced the money to pay the charges on the cotton at Mobile; suppose Griffin & Porch did. Did not keep the books then. T. S. Burbank generally bought cotton because he was a judge of it. My brother bought some; don't know how much. Think he bought some. They usually went together to look at cotton. Don't know if T. S. Burbank put the mark on the cotton book. Don't know when it was put on; saw it every day. Don't know when I first saw it. There is no record of 5 bales on my memorandum book copy from the cotton book. The 68 bales were bought after I left Montgomery. I am not, and never was, my brother's partner. T. S. Burbank's letters from E. W. Burbank were kept in the store, where my brother could see them. Some, perhaps, he kept in his pocket. Some of this cotton was bought for cash; some for goods. Don't know how much. It was mostly paid for in cash from the safe from the sale of goods.
200 I left in October. The five bales were not shipped till after that. I left about Oct'r 8th. The firm dissolved on the first.

To Mr. Bright:

Harrison paid back $2,000 or $3,000. There was difficulty in getting the balance. He bought no cotton.

To Judge Whitaker:

Saw before document shown, (paper dated Aug. 8th.) Saw my brother have it. Don't know when. Was in the store when it was made. It was drawn up, T. S. Burbank said, in reply to my brother, o see what profit merchandiseh ad made. Don't know that it

was made up at the request of E. W. Burbank. Don't know that it was sent to E. W. Burbank. Don't know how it came to my brother. Think he found it in a book. He said so. Don't know if it was this or another paper. Think, upon reflection, it was another paper, made out by a lady. In my letter to E. W. Burbank I did not state that any cotton was to be reshipped. I supposed the whole lot was to be reshipped. Don't know if it meant the whole lot or only 57 bales. T. S. Burbank dictated the
201 letter. I signed it Burbank & Bigelow, per W. W. Bigelow.

Wenk to Mr. Bright:

Was bookkeeper of E. W. Burbank. We got a few goods from Burbank & Bigelow, a few bales of osnaburgs, some bagging and dry goods; am not certain. Think I saw a letter from Burbank & Bigelow to E. W. Burbank, about shipping cotton and something to New Orleans. Don't remember the contents. It was about these dry goods and cotton. Can't recollect certain that "cotton should be shipped to New York" was an expression in it. Think something was said about drawing on it. Don't recollect that it said it was to be drawn on all it could bear. Mr. Bigelow mentioned to me that such an expression was in the letter. Think I said, yes. On reflection don't remember that there was. It was about shipping and drawing on it all it could bear that Mr. Bigelow spoke to me, as the contents of the letter. On reflection I am not certain if that was in
202 the letter or not. Have had conversation with Mr. Burbank. Have had no conversation on that subject with him. Burbank said there was no such letter. This is not what makes me doubtful; my doubt comes from more recollection. I am doubtful whether E. W. Burbank was instructed to draw.

To Judge Whitaker:

Don't know how that letter was signed. Don't remember how it was signed. Think fifty odd bales were mentioned in this letter. Perhaps 56. Think it was the latter part of June. Don't know whose was the handwriting. Don't know if it was T. S. Burbank's or Mr. Bigelow's or Mr. Bowman's. Would not have recollected anything about the letter if Bigelow had not spoken of it. E. W. Burbank never spoke to me on the subject of that letter. It was T. S. Burbank who did.

To Mr. Bright:

T. S. Burbank used to be managing man in New Orleans. E. W. Burbank is now. Think this cotton was shipped to New York. Don't know if they drew on it.

203 A. F. Dunbar to Mr. Bright:

I bought Alabama osnaburgs in July at from 40c. to 50c.; sheetings at from 35c. to 45c.; cotton I don't recollect.

To Judge Whitaker:

The value of osnaburgs depends upon the quality and weight; 50c. was the price of heavy goods. Lowest qualities sold at 35c. Never

have seen these goods. The price of sheetings depends upon the same qualities, width, weight, &c.; ¼ osnaburgs were worth 42½ to 50c.; ⅞ were worth 37½ to 42½c.; ¾ width were worth 33c. This from the 25th to 30th June. They are worth about the same now.

E. S. Benedict to Mr. Bright:

E. B. Bigelow came into my store in April last and looked at goods. He wanted to buy for cash, but did not buy. A day or two after he came to know if E. W. Burbank would be good for 30 days.
204 I did not know about E. W. Burbank, and made inquiries and found he was good. A day or two after I told him E. W. Burbank's name was good. He selected $1,008 in goods. The goods laid for some time. There was difficulty about permits. Four or five days after E. W. Burbank said the permits had been got. Bigelow told me he could not pay cash, but wanted cash to buy cotton. He bought other bills afterwards. I was away then. I don't know who bought them. They were charged to E. W. Burbank, and shipped to Burbank & Bigelow at Montgomery. Fornow was not my clerk then, but was afterwards. He was employed by my son after I went to New York. He, Fornow, collected part of the first bill, E. W. Burbank paid me $500, and Fornow collected $500.

To Judge Whitaker:

Went to New York in June. Haven't sold Burbank & Bigelow since I returned. By "he bought" I mean Bigelow selected goods. I preferred to charge E. W. Burbank. I never got any pay except from E. W. Burbank, to whom goods were charged and credits given.

205 Wenk recalled. To Mr. Bright:

Griffin & Porch gave their order for six thousand dollars and odd on Sloan & Co.

To Judge Whitaker:

The proceeds of 56 bales cotton were credited to shipment by E. W. Burbank. Don't know if it was to Burbank & Bigelow's account. Burbank & Bigelow do not appear at all in the shipment. I did'nt know whose cotton it was. Shipment was for account of 56 bales of cotton. The expenses were charged to the shipment, not to Burbank & Bigelow. When the $6,000 was received I credited H. Sloan for it. It was charged to cash. Witness swore to the charges on 56 bales of cotton; that they were $2,081 74.

Fornow to Mr. Bright:

Was clerk for Benedict in July. Began there on 13th July. Had a bill to collect on E. W. Burbank, a balance of $500. Called several times on E. W. Burbank for the money. He did not pay; said he had cotton from Burbank & Bigelow, and when it was sold he
206 would pay.

To Judge Whitaker:

Mr. Burbank said he had cotton belonging to some parties. Did not mention Burbank & Bigelow. I think the bill was against E. W. Burbank. I am not positive. Don't think I received the money finally.

FRIDAY, 23D, 1866.

E. W. Bigelow, recalled. To Mr. Bright:

About July 9th, about $900 in vouchers were left with battery commanders to collect. I kept about $250 of the vouchers.

To Judge Whitaker:

These were orders on the men. Took $1,500, all battery orders, in June, from the store of Burbank & Bigelow; took in December $350 from Burbank & Bigelow; and $324 not belonging to the firm—orders on the men. All were charged to me. Took at one time about $1,500; at another time $187; and a smaller batch, in all a little over $1,800.

After they were charged to me they were sent to New Orleans
207 to collect, and considered about useless. The orders and vouchers were distinct from each other. The vouchers I took at New Orleans amounted to about $1,830.

Wangs to Mr. Bright:

I know E. W. Burbank. Called at his store about 27th May, to know if E. B. Bigelow had left orders about a permit for a colored regiment. Bigelow was to furnish me goods. Asked E. W. Burbank if Bigelow had left orders for me to get goods. Supposed the goods were to be charged to Bigelow. E. W. Burbank said his brother and Bigelow went to Montgomery to buy cotton and sell goods. He said that he was expecting cotton from them, and if he got that, I should have the goods. Called two or three times to find where Bigelow was, and see if he had changed his mind. Burbank said if he received the cotton I might get the goods, if I received the permit.

To Judge Whitaker:

I never got the goods. Never got the permit.

208 *Defence.*

S. N. Burbank to Judge Whitaker:

Am purchasing clerk for E. W. Burbank, and have been ever since he has been in business, except when I was out of town for three or four months. E. B. Bigelow was introduced by Griffin and Porch. He was a sutler. I purchased most of the books sent to Burbank & Bigelow. Recollect purchasing a book like the one shown. Bought it for T. S. Burbank. Did not buy it for Burbank & Bigelow. T. S. Burbank wrote for it to E. W. Burbank. Bought it in the latter part of June. Don't remember the date. The bill shows the date. I was at the foot of the stairs at E. W. Burbank's store when Bigelow came down with the books under his coat. I saw one sticking out.

His coat would not hide them all. I was present when the contract of partnership was made between T. S. Burbank and E. B. Bigelow. Bigelow was to put in $10,000 in ten days. Said he had sold his store in Wisconsin, and would get the money from that. Said a regiment owed him $8,000 or $9,000 as sutler. Could get this as
209 soon as the regiment was paid off at Montgomery. Paymaster had gone up there already. Could get $20,000 from his friends in Albany, if necessary. The profits of the firm were to be divided according to the amount which each partner put in. E. W. Burbank sold goods to T. S. Burbank. T. S. Burbank purchased all the goods sent to the firm by E. W. Burbank. E. W. Burbank furnished the goods in part from his store and in part from outside; purchased most of them outside. He had a small stock at the time; not more than $12,000 or $15,000. The partnership lasted till 1st October. My brother sent to the firm, from the middle to the last of May up to the 1st October, fifty-odd thousand dollars in goods; don't know the exact amount. I was here when Bigelow returned in December; was present at his interview with E. W. Burbank. Bigelow asked him about the account sales of certain lots of cotton. My brother said, "What cotton?" He said about 150 bales; this cotton in suit. My brother asked him why he asked this question. Bigelow said he had an interest in the cotton. My brother replied, this is the
210 first time I ever heard you had a claim on that cotton. Bigelow said, "I have no claim against you, but I have against T. S. Burbank." There is still left at E. W. Burbank's store about 8 empty beer barrels and four barrels of dried apples. They belong to Burbank & Bigelow, and are in charge of T. S. Burbank. They were sent back here to be returned to where they were bought. E. W. Burbank's consideration in furnishing goods to the firm was that their value should be invested in cotton for his account. Bigelow agreed to this. I think Bigelow had no money; I never learned that he had any on hand. At that time there was no custom, that I ever heard of, of shipping goods to Montgomery at 30 days' time. Bigelow was to put in $10,000 in ten days, and what was to come from his sutlership when he got to Montgomery. A telegram was sent by E. W. Burbank to T. S. Burbank on 18th June. The purport was that the ½ tax had been taken off. E. W. Burbank was in the habit of instructing T. S. Burbank how and when to buy cotton. My brother corresponded with T. S. Burbank, and not with Burbank & Bigelow, to my knowledge. Goods were shipped to Montgomery on T.
211 S. Burbank's order only. We did not fill orders except when they were signed by T. S. Burbank. Refused to fill other orders, and once refused to honor Bigelow's draft. I don't remember any draft drawn by Mr. Gallagher. The day when Bigelow took the books from E. W. Burbank's store he asked my brother for the copy of a voucher. Brother (T. S.) was to go to the house for it. Bigelow did not ask for the cotton book. I was sitting by near the fire. Bigelow asked how long it would take to get the copy of the voucher? My brother said, "one hour." Bigelow took away the books lying on the desk, while T. S. was gone for the voucher. Bigelow did not

get the pass for my brother to go to Montgomery; I got it. I saw Bigelow in the vault of E. W. Burbank during the absence of the bookkeeper on the same day when he took away the books. Don't know what business he had there. There were never any bills of lading printed for Burbank & Bigelow. I had no conversation with Mosher about such bills of lading, or about cotton. E. W. Burbank never had bills of lading printed for Burbank & Bigelow
212 in advance and sent to the firm; at least, not before August. In August I went to Mobile. Mosher is a debtor of E. W. Burbank; owes him about $200; he has left the country. He used, before the 1st May, to be a camp-follower; was engaged in smuggling; smuggled tobacco across the lines. I have this from Bigelow and from Mosher, himself. Bigelow said Mosher made $1,000 smuggling tobacco. I don't know if my brother was called upon to pay bills of Bigelow. I have seen the book referred to as my brother's private memorandum book; never saw the inside of it, or of any of the books of Burbank & Bigelow. The book sent to T. S. Burbank was a fac simile of this, (the book shown in court,) a cotton-weigher's book. I thought such an one would be a good one for my brother's purpose. All the osnaburgs and sheetings sent from Montgomery are still on hand, except one bale, because my brother (E. W.) could not get the cost on them. The highest price offered for them was 23 cents; that was offered by Mr. Raine and by Mr. Wallace. Wallace took one bale at 30 cents; picked his choice. I am not well acquainted with the quality of osnaburgs; I never bought any.

213 To Mr. Bright:

I never was in business for myself. I used to be a planter. I once had charge of E. W. Burbank's store when he was absent. The store was where it is now, on Tchoupitoulas street. My name was not on the store. I was agent for E. W. Burbank then, and signed for him by a power of attorney. My name was not on the books or door; E. W. Burbank's was. When I was acting as agent my brother was on his plantation near Donaldsonville and elsewhere. He might have been here during this time for two days; my brother was not here at other times while I was agent. I then did the whole business. I did not start it. It had been going for two or three years. I only carried it a short time, four or five months, during his absence. Before the sign was "E. W. Burbank" it was "T. S. Burbank." This was on Poydras street. I was a clerk then. My name was not on the sign as "Samuel Burbank, agent." I was agent in 1863, in July, August, September, October, November; no longer. E. W. Burbank then came back.
214 I worked as agent on a salary of $1,200 a year. That is my salary now. I drew money when I wanted it, and what I needed. Did not draw it directly as salary; I was on a salary. I did not charge it as salary. It was charged to my account. I am still agent when E. W. Burbank is gone. I don't know anything about bookkeeping. Don't know how much I drew out that four months. Don't know where it is charged. Don't know how it is

charged; but the books will show. I am clerk at E. W. Burbank's still, and am interested outside. I guess what I have drawn is not charged on the books as my salary. My brother lets me have what money I want; I am not limited. When I draw out money it is charged to my account. I don't know with what it is credited. I have been clerk for E. W. Burbank since 1863. Don't know how much I have drawn out since. Have drawn more than my salary. I am permitted to run drays. We have seven drays. I belong to the firm of Cook & Co. Not a great deal of my time is occupied by drays.

I have no interest in the business of E. W. Burbank. I have
215 spoken of Burbank & Bigelow's contract of partnership. There was a written memorandum of a contract between Burbank, Bigelow, and Olmstead, written, I think, in pencil. Don't know if it was signed. Mr. Wenk can tell of that. He drew it. None was ever signed that I know of. It was not drawn up in ink that I know of. Could not say if that written contract said that cotton was to be bought for E. W. Burbank. Would not recollect if it did say so. Don't recollect anything about it, except that I saw that contract between Burbank, Bigelow & Olmstead. I don't know where it is. Have not seen it in the hands of T. S. Burbank, or E. W. Burbank. I asked Wenk for it. He said he thought he had torn it up. He told me so since the suit commenced. Bought a book like this and sent it to T. S. Burbank. I never saw it since. Don't know what became of it. I had it packed in crate of crockery. Can't find charge for it on the books. The bookkeeper can. It is rather my impression that I paid for it out of my own pocket. I am not positive. I bought it of Fitzwilliam, on Camp street. My
216 impression is that I paid for it out of my own pocket. My impression is that I have paid for other things for E. W. Burbank. Invariably what I bought was charged to E. W. Burbank. I know Olmstead only by name. E. W. Burbank always wrote to T. S. Burbank; all I ever saw of their correspondence. T. S. Burbank wrote all letters to E. W. Burbank. Burbank & Bigelow did not. Never knew E. W. Burbank to write to T. S. Burbank, telling him what to say, and that he should write to him, (E. W.,) telling him to put on a face. Bigelow agreed verbally, I being present, that E. W. Burbank was to have the cotton bought. The agreement in writing was in pencil. I have not seen it since. Don't know if I ever read it. E. W. Burbank did not credit Bigelow with the cotton in suit, because the cotton belonged to him, (E. W.) I know of no custom of sending goods to Montgomery at 30 days. We bought the goods at 30 days. We bought all our goods in that way, that is, in town. The accounts were always rendered at the last of the month. Never learned that E. W. Burbank got a discount of five per cent. on paying bills. He bought goods of C. E. Spencer. They were
217 paid for in money, same as other purchases of the house. Don't know that they were not paid in money. Think it likely E. W. Burbank gave exchange when parties desired. That is the custom. Bigelow took away the books of Burbank & Bigelow. I I never saw the receipt book. Never bought a receipt book for Bur-

bank & Bigelow. Think one was bought by Mr. Wenk perhaps. Don't remember buying myself the receipt book. I bought most of the books for Burbank & Bigelow. I bought a book like that in court. Am not certain that I bought the others. Think I did, but bought so many things, I am not certain. Bigelow told me he was to put $10,000. T. S. Burbank was to put in goods. E. W. Burbank was to give T. S. Burbank credit. As the consideration for this credit, cotton was to be bought and shipped to E. W. Burbank, for his account, out of proceeds of goods, and the goods were to be paid for in that way. T. S. Burbank was not doing much of anything before he went in with Bigelow. He had been in New York in 1864. In the winter he went to Chicago and St. Louis. He went on business—on
business of the grocery, I think. He attended to the business
218 of the store of E. W. Burbank at intervals when he was here,
and a part of the time attended to his own business. Don't know what his own business was. He had some business to settle at New York and Philadelphia, and elsewhere. It was his old business of 1862 and 1863—outstanding debts. T. S. Burbank had been in business here. He sold out to E. W. Burbank in 1863; took his name off the door. He went to Philadelphia and New York, partly to settle his own business, and partly as agent for E. W. Burbank Don't know how much he got for selling out. You can find out at the recorder's office. James Graham made the papers. Don't know why they were made before a notary public. Think he was threatened with seizure. He staid there afterwards a year or two. Don't remember that he had any salary. The books will show. When I was agent T. S. Burbank was gone north. He was getting a salary in 1863 from E. W. Burbank. The books will show how much. E. W. Burbank was on a plantation before he bought this house out. E. W. Burbank might sometimes say "our" in his letters to T. S. Burbank.
I might say so. Clerk's say "our" speaking of the business
219 of the concern where they are employed. Brothers might do
so, especially when they are clerks. It is an expression often used by those having no right to do so. Bigelow asked E. W. Burbank for cotton account sales. E. W. Burbank said "what account sales? I did not know you had any interest in it." Bigelow said, "I have against your brother." Don't know myself what interest Bigelow had in this cotton. Don't know how he had any claim, except that he wanted to take advantage of the bookkeeper's death. Don't think this suit would have been brought if the bookkeeper had not died. This is my impression. Never knew Tom to keep any of the books of the firm at home. I never saw any of the books there. He lives with me. I never heard my brother say he had a cotton book, but have heard him speak of a memorandum book. I think Bigelow must have lost it in his hurry in the street.

To Judge Whitaker:

Am not a bookkeeper; never kept more than a memorandum book.
Kept one in my pocket in Mobile, last summer. Bowman
220 went up to Burbank & Bigelow about July 1st. The goods I

sent them were purchased by E. W. Burbank, and 30 days' credit was given to him, and not to Burbank & Bigelow. I have been in the city since January, three years. Before that I was a planter in the parish of St. John's. Was not brought up in mercantile business. The stock on hand of E. W. Burbank, when partnership of Burbank & Bigelow was formed, was $12,000 or $15,000. We diminished it all we could to raise money to send to Montgomery to buy cotton. There was another firm at Greenville. T. S. Burbank and Mr. Dutcher. Merchandise and goods were sent there. T. S. Burbank attended to that for E. W. Burbank. Dutcher has brought no suit against E. W. Burbank. E. W. Burbank invested during the existence of these two partnerships a good deal over $100,000—$150,000 I should think. T. S. Burbank attended to all this in Alabama. I went to Mobile awhile myself.

To Mr. Bright:

Went to Mobile for E. W. Burbank; E. W. Burbank was interested with Griffin, Porch & Co., in Mobile; he had an equal share
221 in the business at Mobile; don't know if the agreement between them is in writing; think I know of the fact from what I heard Porch say, also from E. W. Burbank; I charged my expenses to Mobile to investment fund; I took so much money to invest, and charged it to investment; Griffin & Porch were not interested in this business; I collected $200 or $300 for them, and used it, crediting them with it; I did a little business there for Griffin & Porch; I did not charge my time to E. W. Burbank; that was E. W. Burbank's; he sends me out whenever he has business for me to do; Griffin & Porch had then left Mobile, and closed their business; they were not in the least interested in what I went over for; never saw a letter from Burbank & Bigelow to E. W. Burbank directing him to ship cotton to New York; am in the habit of reading E. W. Burbank's letters; he keeps a letter book; what letters the bookkeeper writes are usually copied; also some of E. W. Burbank's; not all; he is careless, very careless; his carelessness or the want of time, I think, is the reason for the omissions to copy; letters received are kept
222 on file in the office; E. W. Burbank sometimes keeps letters a long time in his pocket; don't know as a fact that he keeps his letters, and does not let the bookkeeper have them.

Lafaye to Judge Whitaker:

Am bookkeeper of E. W. Burbank since Aug. 8, 1865; (brings forward books of E. W. Burbank; turns to order book, date of June 26, 1865;) $1,514 worth of goods were sent to Burbank & Bigelow at that time; on 3d June books sent to Burbank & Bigelow were cash book, $4 50; ledger, $4; blotter, $3 40; blotting paper, &c. The 56 bales of cotton were shipped to Sloan & Co. before I came to the house.

SATURDAY, *Feb.* 24, 1866.

Lafaye to Judge Whitaker:

Am bookkeeper of E. W. Burbank; (here he turns to books of E. W. Burbank, and to the account with Burbank & Bigelow;) Burbank

and Bigelow were credited by me on 5th Sept., 1865, with these sums: $8,001 88, $2,611 01, $1,000, $4,132 80, $150, $1,428 81, $207, and on Sept. 27th with $866 50. (Here witness was stopped by
223 Mr. Bright.) I made entry regarding the Griffin & Porch cotton, an entry of marine insurance $192 50; this is on the 56 bales cotton; Mr. Wenk made the other entries on this lot. Regarding the 99 bales I made entries of:

Freight	$495 00
Revenue tax	1,339 60
Weighing	14 85
Weighing	9 90
Press charges	268 55
Watching	12 00
Drayage	24 75
Wharfage	12 38
Marking and stamping	49 50
Insurance	445 00
Stamp and permit	1 60
Forwarding	247 00

The total amount of these charges was $2,920 13, on the 99 bales; the gross proceeds of sale in Philadelphia of the 99 bales was $16,664 20; charges north deducted, leave $13,744 07. On the 56 bales the net results north were $11,191 87. The total charges before shipment on the 56 bales were $2,081 74. The total charges paid on the nine bales before shipment were $243 23. Net results of this lot north were $1,787 26. The total net proceeds of the
224 164 bales was $29,643 33, without deducting the charges before shipment. The paper stock was sold for 3¼ cents per pound. This lot of two bales was shipped with others, say a lot of 25 or 30 bales, and the 2 bales brought from $33 to $35. I obtain the charges on the paper stock by taking the average of the whole lot; these charges amounted to $23 90. I obtained the charges on the 3 bales of cotton from memorandum given me by Mr. Burbank, received by him from Griffin & Porch. There are still charges outside of those made by me and not entered, received from Griffin & Porch. The charges on the osnaburgs and sheetings amount to $50 45, not including drayage. The charges on the 99 and 9 bales were paid by Porch & Co., and charged to E. W. Burbank by them. There is a charge on the books of E. W. Burbank, dated Nov. 17th, to "adventure in cotton" of $14,043 18, "paid T. S. Burbank by Burbank & Bigelow." This is credited on the same day to Burbank & Bigelow. I have kept books for E. W. Burbank since Aug. 8, 1865. All the letters I got for the house are filed; am in the habit of seeing and reading the letters; seldom saw those sent to
225 Montgomery; saw letter from Burbank & Bigelow, signed either by W. W. Bigelow or by Bowman; saw two signed by E. B. Bigelow; one was concerning rosin; don't remember the contents; there was nothing about cotton in them; would remember if there was; I have management of bookkeeping affairs of E. W. Bur-

bank; I am the only one who has; heard E. W. Burbank say he would not ship goods to Burbank & Bigelow on their order, but would on the order of T. S. Burbank; this was a month ago; I was not in the house when most of the goods were sent; heard what I heard about the orders only a month ago; Wenk was not at Burbank's at the time of these transactions.

To Mr. Bright:

(Mr. Bright calls for the original account sales of cotton in controversy, and they were produced by E. W. Burbank.) I made the entries concerning the charges and proceeds from the original account sales; E. W. Burbank had them; they were in the office; every one saw them; I saw them two or three days ago. (E. W. Burbank here produces the original account sales, which were filed in evidence.) I
226 have stated as my personal knowledge what I have stated; when I have stated otherwise, I have said so; most of the charges were paid in Mobile; T. S. Burbank wrote from Mobile to have them entered; made the entries from memoranda received; never saw the money; these account sales are complete, and show the debits and credits; they are not torn in two, (as suggested by Mr. Bright;) I know Samuel Burbank; he is a clerk in E. W. Burbank's store; don't know his salary; don't pay him; he is not paid every month; I charge what he draws to his account; I do certainly let him draw what he wants; don't pay him on orders; when clerks draw I charge them without any orders; he has drawn since April 13, 1865, $2,408 08; there is a mistake of $500 to be deducted from his account, entered there in error; I sent this $500 over to Mobile for E. W. Burbank, to S. N. Burbank; I will tell you how I know it; I paid his draft in favor of T. J. McMillan, of Mobile; I don't know how to credit S. N. Burbank; was never told; I only know what I am told. (In answer to a juror:) The books have not been balanced since I came into the concern; don't think they ever were.
227 (In answer to a juror:) Never charged the money charged to S. N. Burbank to profit and loss. (To Bright:) Samuel Burbank acts upon the orders of E. W. Burbank, except during E. W. Burbank's absence; don't know what is T. S. Burbank's business at E. W. Burbank's store; it is not his place of business; he is not usually found there; he is there now to settle; he buys some cotton for E. W. Burbank; don't know how he is paid; he has drawn from the house $1,536 since June, 1865; he is not credited with anything; I have paid this; have never seen a memorandum of agreement in writing between Burbank, Bigelow, and Olmstead; don't know of any; never heard of any; the money credited to Burbank & Bigelow is credited paid by them to T. S. Bigelow to buy cotton; the money charged to T. S. Burbank is a little over $100,000; never said it was charged to Burbank & Bigelow. The first item charged to T. S. Burbank is May 12th, $2,000; May 25th, $13,000; same date, $7,000. September 5th, I credited Burbank & Bigelow with $8,001 88,
228 $2,611 01, $100, $4,132 50. (Here witness was stopped by Mr. Bright.) None of the $100,000 was charged to Burbank

& Bigelow; the same amounts credited to Burbank & Bigelow are charged to "cotton adventure." In September received a memorandum from T. S. Burbank of amounts which I credited to Burbank & Bigelow; I have no recollection of seeing the receipt book of Burbank & Bigelow. E. W. Burbank paid for the books of Burbank & Bigelow; don't know who bought them; don't remember any cotton book. I was not in the store till August 8th. Fitzwilliams's bill for stationery was paid July 7th.

To Judge Whitaker:

By net proceeds $29,643 33, I me an proceeds in Philadelphia, after deducting charges north. The New Orleans and Mobile charges are yet to be deducted.

T. S. Burbank to Judge Whitaker:

Am brother of E. W. Burbank; am 45 years of age; have resided in the city and State 25 years; commenced mercantile pursuits in 1862; was in business for myself one year. In the middle of
229 last May commenced with E. B Bigelow; didn't know Bigelow before; Bigelow was introduced to me by Mr. Griffin; Bigelow had had a conversation with Griffin about going to Montgomery; Griffin introduced Bigelow, who wanted to take goods to Montgomery; he talked of it about ten days; did not know his antecedents; joined him to get to Montgomery; Bigelow said he had a pass; he never got me any; he offered me some one else's; I refused it; my brother, S. N., obtained me one from one of Gen. Canby's staff, Col. Starring; the contract of partnership with Bigelow was not in writing; it was a verbal contract; we were to share profits in proportion to the amounts we put in; E. W. Burbank furnished my share of the stock; I had no capital of my own, and I was to send the proceeds of sales to E. W. Burbank in payment; the profits on sales were for me and Bigelow pro rata, according to capital; I supposed he would put in $10,000 in ten days; he promised to put in from $10,000 to $20,000, sooner or later; the clerks of the house must have known of the agreement; most of them were present. The difficulty in the way of Bigelow putting in the $10.000, I suppose, was be-
230 cause he could not get the money; Bigelow put in from June 1st to July 1st about $6,000; he drew out in that time about $4.000; about two thousand dollars he really put in; he drew out at different times in sums as high as $1,500, or near that, twice, and the rest in smaller sums; the last $1,500 he drew out to take west; he represented to me that he wanted it to buy goods; I objected; he went without my knowledge and took the money from the safe, though he had spoken of it a week previous; the partnership was dissolved 1st October; the goods in possession of the firm then were worth about $6,000; he took $3,300 dollars; at first he wanted all; I objected; allowed him to take half; he took afterwards in government vouchers property of firm $1,800 to $2,000; he has collected some money since; I don't know how much; the books will show, I think, about $1,000; my brother sent $53,000 to the firm in goods and money, $49,000 in goods, and the balance in money; sold the goods,

except the amount on hand at dissolution. I shipped cotton to E. W. Burbank; think I shipped about 1,000 bales; there is more
231 yet to ship; something near 170 bales, the cotton in controversy, valued at Montgomery $14,043 48, was paid E. W. Burbank on this merchandise; money was paid him besides $4,000 has been returned; other cotton purchased with proceeds of the merchandise was shipped to E. W. Burbank for his account; can't settle my accounts with my brother for lack of my private memorandum book, my purchasing and shipping book; I got that book about the 1st of July; it contained no original entries of this cotton in controversy; when I received it it was a blank book; the book was obtained after all the cotton in controversy was shipped, except 8 or 9 bales; it contained other memoranda of cotton, besides the 165 bales in cotton, in all memoranda of about 1,200 bales; it was last seen by me on my brother's desk; I was sick soon after the partnership dissolved; the books were packed up at the house in Montgomery with goods, and sent down to E. W. Burbank as we moved; the books were the ledger, cash book, blotter, my memorandum book, and I suppose also the receipt book; took the books to E. W. Burbank's to settle with Bigelow and E. W. Burbank; the vouchers ab-
232 stracted by Bigelow were brought here as assets of the house to be sold; he, Bigelow, objects to some items in settlement, to paying E. W. Burbank the balance due him, and to paying one clerk; he took the vouchers away himself, and gave no receipt for them; I am the liquidator of the firm; notice of liquidation was published in Montgomery on October 1st, the day of the dissolution. (He here reads the printed notice from the Montgomery Mail, filed in evidence.) This notice was published six times, I think; it was published so by mutual consent in the Montgomery Mail; the bill for publication was $6; there is now due to my brother from Burbank & Bigelow a little over $3,000, without interest; I never ordered that cotton should be shipped to Sloan; it never was so ordered from my store; the cotton in suit was shipped to Sloan by my brother, as I know by my brother's letter; the letter said that Griffin & Porch said my brother could ship cotton through them to Sloan, and draw against it; I did not then know of such a house; the first entries on the books of Burbank & Bigelow, in court, commence May 27th; the early entries were made on sheets of paper; I directed them to be
233 made; W. W. Bigelow made them, under my direction; E. B. Bigelow made the entries in the cash book from these sheets pinned together; don't think the sheets were preserved; Bowman came to Montgomery about the middle of June; he found fault with our way of keeping our books; he was a bookkeeper; was educated at a commercial college in Philadelphia; he said books did not show how much cash was received, and how much paid out; he said the entries were not made or balanced properly; his advice was that we should keep regular accounts of sales, and not balance the books, as we had been doing by the cash on hand; the books were kept in a different manner after he came; a regular memorandum was kept of cash received and cash paid out; he found fault with the way in

which the account was kept of the money paid for cotton; said the best way was to take out money in considerable sums, say of $1,000, to be used in buying cotton, and to charge it to E. W. Burbank as cash; we did so after a while, and then always continued to do so;

234 I am not a professional bookkeeper; didn't know enough of bookkeeping to keep a cash account. There was no one in the house who did before Bowman came. The bookkeeper is unfortunately dead; he died in November; he was taken sick soon after the close of the partnership. After my return to the city, and after about ten days' attempt to settle, I was going to Montgomery. Bigelow came on that day; said he was glad to see the accounts of the firm, and took my seat at the desk; he wanted a copy of a voucher; I went for it to the house; when I got back, the books were gone; the memorandum book was on the desk when I went away; the papers we had figured on and the memoranda of vouchers were also there; I have never seen the memorandum book since; I sent to my brother for it originally, I got it about the 4th July; it came in a box of crockery; it never had any marks on it identifying it with the firm of Burbank & Bigelow; there was no lettering on the outside of it. It was my own property; not the property of Burbank & Bigelow at all; I established an agency at Greenville; it was conducted by Mr. Dutcher; I was connected there; the cotton was

235 shipped in the same way as from Montgomery. I was agent for both establishments. From Dutcher's establishment 230 or 240 bales were sent to E. W. Burbank; about 200 bales from other parts of Alabama, and the balance from Montgomery; I did not forward all, though I ordered the forwarding. I myself shipped the 56 bales in controversy; Mr. Collins helped me in making this shipment; Hausman had no part in this shipment, nor did Mr. Bigelow; I asked Mr. Mosher to get the steamboat to await till I could send the cotton; that was all he did about it. Mosher was a clerk of Bigelow, not of me. Neither Hausman nor Mosher shipped any of the 99 bales; Bigelow said Mosher had been his clerk; learned he had smuggled tobacco through the lines for Mr. Bigelow's benefit; had made a thousand dollars at it; Mosher was not in the employ of the house at the time of shipment: all this was shipped from the 20th of June to the 8th July; 20th, 24th, 26th of June, or near those days. The bookkeeper made entries in the memorandum book, and

236 I made some; Mosher and Hausman made none; Bowman made $\frac{2}{3}$ of them; I directed him to make them from the time he came into the store until his death. I did so, because he was a good bookkeeper and penman, and I was not; my handwriting is not steady; could not make letters, marks of cotton, well. My brother sent me over $100,000, between $150,000, while I was at Montgomery, besides over $50,000 in goods; I was not employed by any one else; I wrote letters to E. W. Burbank; Bowman wrote some letters by my direction; he may have written by order of E. B. Bigelow; no attention was paid to such letters by E. W. Burbank; E. W. Burbank said he would fill no orders not signed by me; Bowman told me that in a letter he wrote by direction of E. B. Bigelow; he had

added a postcript "Bigelow's order." On 1st July stock on hand in store at Montgomery was about $15,000; there was then due to me on capital stock about $15,000; there was due on same to E. B. Bigelow about $2,000; that amount stood to his credit on that account; I kept the letters of the firm in a drawer near the desk; about
$34,000 stock received from E. W. Burbank, from 17th May to
237 July 1st; bought osnaburgs and sheetings to ship to E. W.
Burbank; thought it would be a good investment at 25 cents all round; we had no bills of lading at that time; they were bought for E. W. Burbank; Burbank & Bigelow sent no orders to sell them. After Bowman came he objected to the way accounts were kept; he suggested a way of changing them. After Bowman had been there some time, say about 20th, 25th, or last of July, commenced to transfer to a sheet, without heading and in pencil, an account of the cotton, &c., shipped to E. W. Burbank. The object was to send such a statement to E. W. Burbank; about August 1st commenced to go through the cash book to see if this first statement was correct; it was on the 8th August drawn off in good shape; the original, in ink, was kept in cash book. Don't know if it is there yet; the object of it was to see what amount had been paid out for E. W. Burbank. Wrote to him in August, stating that I forwarded the paper to him. (He refers then to entry on the blotter in handwriting of T. S. Burbank of $14,043 48, charged to E. W. Burbank under date of Aug.
238 8th.) The entry was made by me at the time, on the 8th August, but was not carried out elsewhere, in accordance with the advice of Bowman. The reason for this was that, as Bowman said, it would be best to send the statement to E. W. Burbank, and get his corrections before carrying it out; partial statement received from E. W. Burbank did not agree with our account; 30 cts. difference. There were goods not received and amounts collected back. Bowman thought it was best to adjust these differences first, and then make up a new account. I should have had the $14,043 entered up, but for the suggestion of Bowman. This is the identical paper made up by Bowman, (referring to paper dated August 8th, and filed in evidence.) The osnaburgs and sheetings were bought with proceeds of goods from store. The charges on them were paid by E. W. Burbank. No one was authorized by me to sign letters to E. W. Burbank; I signed them; never ordered W. W. Bigelow to sign them; Bowman may have signed orders; I countersigned them. W. W. and E. B. Bigelow had been and were partners. I know it by
239 Wallace complaining that his brother made money but wasted it; Mosher told me so. Soon after Bowman came he suggested getting a post office box; he carried the key; any one could get it; I never used it; (here witness pointed out the statement headed "mem." in back of blotter covering all or nearly all the cotton in controversy, giving marks, bales, dates of shipment, and names of vendors;) had not seen these entries ever before yesterday; had not fully examined them; believed they covered the cotton in controversy; had money in my hands when I went to Montgomery to buy cotton for E. W. Burbank; about $5,000; Mosher never shipped any for the

firm; Burbank & Bigelow never shipped any; Bigelow never shipped any; Bigelow assisted me to mark 40 bales; the firm had no bills of lading printed for them; never offered to sell my interest nor half interest to Mosher; Mosher had no money; I shipped cotton to Mobile because I could not ship direct to New Orleans; only learned, after shipment, that it went to Sloan & Co.; did not before it was sent where
240 it was to go. The firm never shipped any cotton on their own account before the 1st of October. We did ship after that to E. W. Burbank, and it has been sold, and proceeds credited to account of Burbank & Bigelow. Bigelow has been credited on this cotton. The firm bought 68 bales cotton. I advanced several thousand dollars to move it. The shipment was for joint account. Bigelow had one-fourth interest; I had one-fourth interest, and the owners one-half. Bigelow afterwards got their interest, and had a three-fourths interest. Before leaving New Orleans in May I asked Bigelow if he was obliged as sutler to sell on credit. He said, after some hesitation, "yes." I arranged with him that, if he sold so, it should be on his own account. In ten days after we got there the soldiers had been trusted $2,000. No entries of these charges are on the books. There is no firm account of them. The firm had an interest in their collection. They were all charged to Bigelow. There is now in New Orleans belonging to the firm a few beer barrels and dried apples in my charge. It is hard to tell what they are worth, say $500 or $600. They
241 are not worth much. Half are not saleable. The osnaburgs and sheetings remain unsold, except one bale of osnaburgs. The firm sometimes borrowed money of E. W. Burbank. I took it out of the investment fund in my private drawer; sometimes lent $1,000 at a time in this way; generally lent only for a day, and noted by a ticket. The firm now owe E. W. Burbank over $3,000. I am deprived of a chance to settle with Mr. brother for the want of my private memorandum book. It has the weight and prices of cotton.

MONDAY, *Feb. 26th*, 1866.

T. S. Burbank, to Judge Whitaker:

I gave Mr. Harrison money to buy cotton. This is the receipt made in my presence, and signed by Mr. Harrison in my presence, for the money advanced him. This receipt is for two thousand dollars. He had from me $2,100 more to buy cotton. (He produced receipt here from Harrison to T. S. Burbank for $2,000 filed in evidence.) The money charged to me on E. W. Burbank's books
242 is for money and goods advanced to my family during my absence. I have not had a salary for last year, say from last March. Had a salary before. At Montgomery I got from E. W. Burbank ¼ profits in money invested in cotton as my pay. Harrison bought no cotton, and refunded the money. He represented that he bought two bales for me, but I never got it.

To Mr. Bright:

I handed Harrison $2,000 to buy cotton for me, or E. W. Burbank, I being E. W. Burbank's agent. I took it out of the drawer. The

cash book will show entries made that day. (Here witness was shown entry.) The entry is correct. I will swear that Mr. Harrison signed the receipt. I wrote it. Mr. Bigelow will swear so too, I think. (Witness was shown the advertisement in Montgomery Mail, notice of dissolution of partnership of Burbank & Bigelow.) This printed copy of notice of dissolution is signed "T. S. Burbank," "E. B. Bigelow." E. B. Bigelow consented to his name being signed to the original. Bowman signed both names, I think. I do know
243 that Bigelow knew all about it before it went out of the house. I claimed the right to have the dissolution in writing. The original of the notice is very likely at the printing office. The money taken in day by day I considered that I had a right to use to buy cotton, and it was so used day after day, when there was money on hand; or I even bought ahead of receipts or goods. The entries made of these moneys taken out to buy cotton were made by Bowman. I never directed the style of keeping the books, because the bookkeeper was better at that than I. Every one was made, as I supposed, correctly. The entry shows that I paid out so much cash. The entry of $2,000 was made in the same way as the other entries to the amount of $14,043 48. The item of $14,043 48 in the blotter was entered there on the 8th August. I made the entry, because the bookkeeper was busy at making memoranda. It was made a little before sundown, say Aug. 8th. The memorandum previously made not being correct, the entry was not made till that day. Bigelow did not make the contract with E. W. Burbank. He made
244 his contract with me, He knew my conditions of contract with E. W. Burbank. Don't remember the day of the week of Aug. 8. Don't know that it was a holiday I did not alter the date at the head of the page on the blotter (Aug. 8th.) The alteration is in Bowman's handwriting. Can tell his handwriting, and think I can tell his figures. Most of the writing and figures in the book are his. (A calendar was here produced, and the 8th of August found to be Tuesday.) I made my arrangements first with E. W. Burbank, and afterward with E. B. Bigelow before starting for Montgomery. All the proceeds of sales were to be invested in cotton to pay for goods. I sent him (E. W. Burbank) $4,000 in cash. The reason was that my brother was pressed for money at the time, besides the government was then taking ⅛ of the value of the cotton, and I doubted if it was a good investment. I sent the money by a citizen, not by express. The man who brought it is now in the city, Mr. Smith of Smith & McKenna. Did not make the charges in the books, because I was not a good bookkeeper. Would have had the charges made more carefully if I had anticipated trouble.
245 The $14,043 18 was paid for cotton, &c.

I bought of Loeb & Marks 23⅓ bales of cotton. Did not consider that Burbank & Bigelow paid commission for buying. If Burbank & Bigelow paid commission, it shows itself in the books. There is quite a number of entries of commissions paid for purchasing cotton in my memorandum book. (Compares statement of Aug. 8 (in evidence) with the book accounts.) The omission of $92 50

firm; Burbank & Bigelow never shipped any; Bigelow never shipped any; Bigelow assisted me to mark 40 bales; the firm had no bills of lading printed for them; never offered to sell my interest nor half interest to Mosher; Mosher had no money; I shipped cotton to Mobile because I could not ship direct to New Orleans; only learned, after shipment, that it went to Sloan & Co.; did not before it was sent where
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must be from error, oversight. I think this account (statement Aug. 8th) is correct, for Bowman was a correct man. The omission, if there is any, is covered by the customary letters, E. & O. E., errors and omissions excepted. I assisted Bowman in making up this statement. Don't know any particular reason for making this statement out more than I have for doing any other business. I made it up for the use of E. W. Burbank. It might have been used to show how much merchandise had made. I had $\frac{7}{8}$ interest in the merchandise, I think. I swore that E. W. Bigelow was to put in money, so and so, and if not put in in ten days, then he was to have
246 profits in proportion to what he did put in. Bigelow, at the dissolution, got more than half the goods. Not as half, but because he wanted them. We did divide the specie, about $30. Bigelow gave me a receipt. I tore it up and put it in the fire. We divided the money, as I did not think worth while to sell thirty dollars. I also took up Mr. Bigelow's receipt for orders. My brother gave me $100,000 to buy cotton. I did not enter this on the books. I put $53,000 in goods into the firm. Put them in as mine, not as E. W. Burbank's. Had no cash capital of my own. Had only a little at that time. Did not put in cash capital, because I hadn't it. What little I had was otherwise invested. Had nothing in shape to turn into capital. If I had had capital I should not have borrowed. Did not have $10,000 in $\frac{7}{30}$'s in Philadelphia. Never owned a $\frac{7}{30}$ (seven-thirty.) The paper shown is my brother's handwriting, I think. $10,000 is placed to my credit in Philadelphia. I will explain: When I went north two years ago I bought $2,000 in five-
247 twenties; deposited them in 7th National Bank, Philadelphia, J. C. Dehaven & Co. Half belonged to E. W. Burbank. "Raise all the money you can to buy cotton" means raise all the money you can to buy cotton. Can't tell "what put on a face" means till I see the letter containing it. Can't say I did so
248 write to E. W. Burbank. Have no recollection of such a remark, and cannot have without seeing the letter. I could use it with reference to straining his credit. Should not consider it good sense without an explanation. To put on a face as to a particular man might be to be decisive in doing business with him. I can't say if I saw or heard the expression. It might be in a dozen of letters. I don't know whether it was on one or not. Don't think there was any need of putting on a face with Olmstead. Don't think there was any need of it with such a man.

(Mr. Bright offers witness a letter, asks if he recognizes the writing as E. W. Burbank's.)

When I get through examining it I will tell you. It may
249 be interpolated.

(Mr. Bright then reads the letter.)

Mr. Olmstead is a very trifling man. Olmstead was not to be a partner in any business with Bigelow and myself. The project was started but failed because Olmstead's papers were fictitious. He pretended to have papers to take $50,000 in goods to Montgomery. This would have been very valuable. I took the papers

to headquarters. They told me they were good for nothing. They told me there was no such thing as a general sutlership pur-
250 veyor, which appointment Olmstead claimed to have. They insulted me at headquarters for offering such papers. Bigelow told me Olmstead was arrested, or threatened with arrest for this pretension. Putting a face on Mr. Olmstead, meant get rid of him. Olmstead, in the store, was everlastingly talking, all day and all night. Advised to get rid of him in any way. Bigelow never offered me his pass. Did not say I refused to go to Mobile on Bigelow's pass. Will tell you what I did say, if you will let me. (Mr. Bright here handed witness a letter and asked him if he recognized it as his brother's writing.) Wait till I get through, if you please. I recognize it as my brother's. (Mr. Bright here read the letter.) I never travelled on Bigelow's pass. Bigelow never had a permit. One of Gen'l Canby's staff told me Olmstead's permit was not good. There was no such purveyor as purveyor of sutlerships. I did not use Olmstead's permit. That permit passed through the New Orleans custom house and was pronounced not good. Don't
251 know that my brother used this permit. Don't know whether any goods were shipped to me on this permit. Don't recollect that I received any. Think after reading these letters, (handed to witness by Mr. Bright,) the permits were used after I left New Orleans. My room has lately been searched by a search warrant. Think Bigelow took the cotton book away. (Here Mr. Bright said he supposed the jury would be surprised at his client's having these letters from E. W. to T. S. Burbank. The fact was the books of Burbank & Bigelow were necessary to his interest in this case. I told my client if he could get possession of these books they would be of great value to us in this suit. The papers were found in the books. Judge Whitaker then said "so these letters were obtained surreptitiously, Mr. Bright?" Mr. Bright said, yes.) I came to New Orleans to settle my summer's business. My business with Bigelow was not one-tenth of my business. I can't settle correctly with E. W. Bigelow without my memorandum book. I said I got one-fourth profits on the cotton I purchased, but not on this cotton in controversy. Not the first dime on it. Had no interest in it whatever. I got my profits for these purchases by profits on goods sold. I often
252 loaned money to Burbank & Bigelow, and Burbank & Bigelow to me. It was done by tickets. I kept no books of the other business. I had no books but my memorandum book. I made up some accounts of my business from memory. We commenced the different manner of keeping the accounts of Burbank & Bigelow after July 8th. It was advised by Mr. Bowman earlier. The 68 bales cotton bought by Burbank & Bigelow and for their account was entered like the first entries of purchases of cotton, because it was really a purchase of the firm. On 10th July I drew out $2,500 in cash, and charged it to E. W. Burbank. Bought cotton with it. Goods sold by the firm and paid for in cotton are entered after July 8th as if paid for in cash. The number of bales as charged up to 8th July falls short, because of bad order of

cotton on repacking. Your figures are not correct, there should be more than 161 bales on that paper. Where cotton was paid for in goods, the entries would show cash received for goods, and
253 cash invested in cotton. Have not seen or read a statement of what S. N. Burbank swore to on Saturday. Have never seen it. Can't say it was read in my presence. I did not hear his testimony. Don't think I've read it or heard it. Might have had some conversation about it. Can't say it was read to any one else in my presence. May have talked with E. W. Burbank about it. I can't tell you anything about it. I have not asked him a question. I talked with S. N. and E. W. about it, but have not asked them any questions. It has not been read in my presence. I am not positive, but don't think I have heard it read. The house (commercial) of E. W. Burbank formerly belonged to me. I sold out to E. W. Burbank for $2,500. I have never exactly failed. I conducted my brother's business for over a year. Was not in the store over a year or two. He owes me yet, as I think, on my share on profits of cotton. Never had a quarrel with Dutcher, or with any one, except this.
254 Can't tell what S. M. Burbank does. Presume he is a clerk in the store. Don't know his salary. Think it is $1,200. Have heard so several times, but don't know it. Have heard him say it would not support his family. I have no connection with Griffin & Porch. E. W. Burbank has. Don't know what it is. You must ask E. W. Burbank or Griffin & Porch. I suppose it is a half interest, tho' I have understood differently. Suppose the memorandum book was bought by S. N. Burbank. The new one in court was borrowed of Fitzwilliam. E. W. Burbank's money principally paid for purchase of 68 bales of cotton. It is charged as it is because most of the purchase money came from E. W. Burbank. A part of that money, say about $4,000, was taken out of the store, the balance, over $5,000, was advanced by me out of E. W. Burbank's money. There still remained a sum due on that advance. I don't think I owe Burbank & Bigelow anything. I had over $4,000 and Bigelow over $6,000 from the firm.
255 There has been no division yet. The cotton, 68 bales, was mostly purchased with goods. Mr. Bigelow purchased most of this. Some of it was loose cotton. All the cotton in controversy was in my memorandum book Nearly all the cotton I bought was in said book. I think you got your copy (W. W. Bigelow's copy) from the blotter. Can't say if that record in the blotter is correct. I have had no chance to compare. (He compared.) B B mark on some of this cotton stands for B B. I intended to ship the cotton, marking each lot in alphabetical order, the first lot A, the second B, the third C, &c. Had shipped two lots, one marked A, the other B. Bigelow marked this B. Having already shipped cotton marked B, I added a B. Some of the goods received by us were marked T. B. & Co.; some B. & B. The first lot was marked B. & B., and I had the marking changed to T. B. & Co., as Bigelow had not put in any money, and I wished the goods under my own control. On the first

lot the clerk had marked half the goods B. & B.; I objected, but it was too much work to change it, so I let it go.

256 To Judge Whitaker:

I got my pass of Gen. Canby. Bigelow offered me another man's pass; I objected to using it. After the 8th July money taken to buy cotton was charged directly to E. W. Burbank on books of Burbank & Bigelow. I was in company with E. W. Burbank in planting for 15 years. At the beginning of the war we had a large crop. We shipped to Philadelphia part of this crop; sold it, and invested the proceeds in 5-20; half of this belonged to E. W. Burbank. He has used about half, say $10,000, this season. The rest still stands to my credit in Philadelphia. The account dated August 8th was made to show how E. W. Burbank stood, and nothing else, and is entered in E. W. Burbank's books not quite as it is on this statement of August 8th, as the bookkeeper discovered a mistake in that statement of less than a dollar. Bigelow was to put in $10,000 in ten days, and $9,000 in twenty days, and draw proportion-
257 ately. When the books were taken, loose papers and vouchers were taken; think the loose papers were in the vault. It was in the power of any one who went into the vault to carry off the papers.

G. W. Porch to Judge Whitaker:

Griffin & Porch carried on the cotton business in Mobile, and were connected with E. W. Burbank in it. Took stock to Mobile to purchase cotton and sell merchandise. Arrangements were, that E. W. Burbank should have an equal interest with Griffin & Porch. We received cotton from Montgomery, and placed it to the account of E. W. Burbank; sent the cotton to Sloan & Co. Cotton received from Montgomery in two lots—42 and 57 bales, 99 bales in all. Am acquainted with Sloan & Co., of Philadelphia. Sent the cotton to them per direction of E. W. Burbank. I advised the sending of this cotton to Sloan & Co. This cotton was shipped while I was
258 in Mobile. I rarely examined the accounts.

Wm. McDuff to Judge Whitaker:

Have loaned E. W. Burbank money; don't know for what purpose. Have loaned to him several times last summer; once $2,000. Took no note for it. He had loaned money to me, and I to him. He applied to me for $20,000. The matter rested some weeks. I made arrangements by which I think he got the money. I went to the National Bank and spoke to Mr. Graham. Mr. Forbes at the bank told me Burbank got the money. He had given him the money. Burbank at one time owed me three thousand dollars. I had no note for it.

E. W. Burbank to Judge Whitaker:

Am acquainted with E. B. Bigelow; have been since 1st
259 May last. Was present when contract regarding Montgomery affairs was made between T. S. Burbank and E. B. Bigelow.

Griffin brought Bigelow into my store. I stood at the desk. He passed by me to my brother. He was introduced to my brother. They had a long conversation together. Griffin left the store after the introduction. My brother told me what Bigelow wanted. He was without money. He asked me what I thought of Bigelow's representations. He said Bigelow would have $8,000 or $9,000 shortly from his sutlership, as soon as he got over to Montgomery, and that he (Bigelow) would sell his store, land or store, in Wisconsin for $10,000. If necessary, he could also get $20,000 from his friends at Albany. I thought of it, and did not think much of it. I had heard many such promises before. I told my brother I would sell him goods if he would go to Montgomery and attend to the business personally. Two or three weeks were spent in talking the thing over. There was no hurry about entering into the business.

260 The understanding was that Bigelow was to have half the profits if he put in the money he promised; otherwise in proportion to what he did put in. My benefit for sending up goods on credit was to have the price of the goods invested in cotton for my account. My stock was then light. The majority of the goods I sent to Montgomery; at least three-fourths were purchased outside my store. These were such things as hats, Yankee notions, and so on. I bought at market prices, and made nothing except the prospect of doubling my money (as Bigelow represented I could) on cotton, rosin, &c., lying round Montgomery loose. He said all I had to do was to pick it up. Sent no goods on order of Bigelow. I said I would send no goods to him. They wrote to find out why I did not. I said I would send goods on the order of T. S. Burbank, and not on Bigelow's order. T. S. Burbank had no money in the firm. I sent him all the money he called for to buy cotton. The purchases of cotton were not limited to the money got by the sale of goods.

261 Think the money and goods supplied for the store amounted to about $50,000; money and goods for the two stores, $150,000 to $200,000. This includes everything. The cotton in this suit did not form the larger part of the cotton then bought by T. S. Burbank. In all I received about 1,200 bales. I received cotton from Greenville from Burbank and Dutcher; can't say how much. Received a statement of 165 bales of cotton purchased with proceeds of goods by my brother; statement of investment received on this cotton about $14,000, which was entered on my books. Gave statement to bookkeeper, and ordered him to enter it, as I always do at such times. Can't say how long S. N. Burbank has been in my employ. He takes his money when he wants it; he is my purchasing clerk. I told him I would give him $100 per month. S. N. has been keeping house, and I boarded with him till January last. Think I owe him on that score about $1,000. T. S. Burbank also boards with him.

262 He gets his groceries from the store, and they are charged to his account. My family boarded with me at S. N. Burbank's. If all these items are balanced, and he is credited with the board, I shall probably owe him. I have been with him from January, 1865, to Jan'y, 1866. My family came down in March, 1864. T. S. Bur-

bank's family, of 6 or 8, boarded with him. I don't remember the man Fornow coming to me to collect a bill; he might have come, but I don't know that he did. Benedict's bill was paid, $500 on 23d June, balance on 7th July. It was not paid to Fornow. (He refers to receipt book and shows that it was not paid to Fornow.) Bigelow came in once or twice and asked if I had received account sales of that cotton. I asked, "What cotton? Have you a claim on me?" Bigelow said, "No, none on you; but I have on your brother." I told him my brother would be over in a few days. S. N. Burbank was by. I have the osnaburgs and sheetings on hand; all but one bale. They are not sold, because I could not get what I
263 wanted for them. Tried to sell them several times. Mr. Raine offered me 23 cents for 3 bales. I did not want to sell them at that price. Mr. Wallace would not make me an offer for them. He said they were worth only 22 cents; that they had been sold for that at auction. Afterwards he came and offered me 30 cents for one bale, because he had an order for that. He would not pay that, he said, except that he had an order for it. Have no recollection of ever receiving a letter from Burbank and Bigelow regarding Sloan & Co. Think I could not, because I did not know Sloan & Co. Would not have recognized any draft of Bigelow's on me. Bigelow sent a draft for $200 from Mobile. I paid no attention to it and would not pay any attention to his draft unless it was indorsed by T. S. Burbank. E. B. Bigelow drew this draft. I paid the charges on the cotton in controversy. A gentleman asked me to accept Bige-
264 low's draft in payment for a horse. He was a United States officer. I refused. Mr. Gallagher asked me if I would pay for a long string of goods for Bigelow. I said that if I wanted the goods I would pay for them; till then he need not pack any. I know Mosher; he shipped several lots of cotton. He shipped me apples and flour. He owes me now about $200. The last I heard from him he said he would send me the money or cotton, but he has left the country, as I learn. He shipped none of the cotton in controversy, to my knowledge. What he shipped was on his own account. I sent many despatches about buying cotton to my brother. On the 17th or 18th June, I sent one to my brother; informed him that the ½ tax on cotton had been taken off. Brother's answer was, "Despatch received and acted on." Was in the habit of instructing him about purchasing cotton. About
265 a thousand bales were bought. I gave credit for all accounts rendered. Gave Burbank and Bigelow credit for 68 bales on my books last fall.

TUESDAY, *Febr'y* 27, 1866.

Lafaye recalled. To Judge Whitaker:

The paper shown in court is account sales of paper stock—the two bales in controversy is a part of this lot. The proceeds of the 2 bales was $33 76. The charges were $23 90. The net proceeds was, on the two bales, $9 86.

T. S. Burbank to Judge Whitaker:

Of the one hundred and sixty-odd bales of cotton in controversy, I bought some 105 bales in consequence of receiving a telegraphic despatch from my brother of June 18th.

266 G. W. Griffin to Judge Whitaker:

Am a partner of G. W. Porch. (An account sales of 22 bales cotton filed in evidence, shown to witness.) Here are account sales of 22 bales; the charges are correct. The cotton was shipped north to Sloan & Co. by the Mobile house. The account sales show 13 bales and 9 bales. The charges on the whole was $469. The proceeds, $891. The net proceeds were $422. You will find the expenses on the 9 bales by proportion—as 22 is to 9, so is $469 to the expenses on the 9 bales.

To Mr. Bright:

Burbank was interested in our house at Mobile; E. W., and not Tom and not Sam. E. W. Burbank controlled the interests of E. W. Burbank in our concern. Tom was there sometimes, and Sam was there, too. Received acc't sales of cotton since the date they bear. The acc't sales represent the date they were rendered. I had
267 no interest in the cotton in controversy, and never had. Purchases were made in Mobile by for us. He never purchased cotton for E. W. Burbank. Think we were interested in some cotton with Burbank, but not in this cotton. Have not within the last 30 days denied having this account sales. Bigelow has asked for this acc't sales. Our answer was, "We knew E. W. Burbank only in this transaction." The net proceeds were credited to E. W. Burbank's account. Griffin & Porch never received cotton from Montgomery. Griffin, Porch & Co. did, I think. I had nothing to do with that. Porch did. I received the 9 bales, but only to forward them. Can't say from whom they came from Montgomery. I am not aware that the government tax on this was refunded. Can't say who the cotton received at Mobile from Montgomery was received from, because I was not in Mobile. There is no record of marks, steamboat receipts, &c., in our store that I know of, to identify this cotton. The Mobile books are a new set, not the set
268 used by our firm in this city. Presume the marks may be in them. They are in court. They are not the books of Griffin & Porch, but of Griffin, Porch & Co. (Here Mr. Bright sent for the books.)

G. W. Bancker to Judge Whitaker:

Am a merchant in New Orleans, wholesale dry goods dealer. Alabama and Georgia osnaburgs and sheetings. I, myself, bought in Montgomery for 23 cents in June or July last. I bought for a friend of mine in New Orleans. When I got back here a part of them had been sold at auction, and a part to W. H. Setchford & Co.; the rest I bought at 24 cents. These were of the ordinary kind.

To Mr. Bright:

Prices of osnaburgs and sheeting did not go up afterwards. Think they are not now worth 25 or 27 cents.

Rebutting.

Mr. Graham to Bright:

269 Was once connected with Montgomery Mail. This was in June or July last summer. Think I recollect slightly of T. S. Burbank putting an advertisement into the Montgomery Mail last summer. He was accustomed to put in advertisements. They were changed from time to time. Once, I think, the advertisement was put in by him of half interest in the firm for sale. Half interest, I think, in the cotton business.

Suppose a file of the Montgomery Mail ought to be in town.

The books of E. W. Burbank, of Burbank & Bigelow; the account sales of cotton in controversy, and of the paper stock; the statement of Aug. 8th; the letters of E. W. Burbank, produced by Bigelow; the advertisement of dissolution from the Montgomery Mail; the receipt of Harrison for $2,000 to T. S. Burbank, and other books and
270 papers filed in evidence, went to the jury room.

At chambers, U. S. C. C.

NEW ORLEANS, *Nov.* 14, 1866.

I do hereby certify that the above eighty-six pages, commencing "E. W. Burbank to Mr. Bright, (I saw a pile of books lying on my secretary,") and ending, "and other books and papers, filed in evidence went to the jury room," is a correct transcript of the testimony as given to the jury in this case.

This testimony was taken down at the time of the trial of the case, and was examined by me immediately subsequent to said trial.

(Sig.) E. H. DURELL, *U. S. Judge.*

271 UNITED OF STATES AMERICA, *Circuit Court of the United States:*

5th circuit and district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 270 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Edmund B. Bigelow *vs.* E. W. Burbank & T. S. Burbank, No. 3,686 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 16th day of Nov'ber, A. D. 1866.

[L. S.] CHS. CLAIBORNE, *Clerk.*

[5-cent stamp, cancelled.]

I, Edward H. Durell, United States judge for the district of Louisiana, do hereby certify that Chas. Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 16th day of Nov'ber, A. D. 1866.

E. H. DURELL, *Judge.*

[5-cent stamp, cancelled.]

272 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States in and for the 6th circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or one of you, between Edmund B. Bigelow and Edward W. Burbank and Thomas S. Burbank, a manifest error hath happened to the great damage of the said Edward W. Burbank, as by his complaint appears: We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 26th of March, in the year of our Lord one thousand eight hundred and sixty-six.

[L. S.] CHS. CLAIBORNE,
Clerk of the United States Circuit Court
for Eastern District of Louisiana.

Filed March 26, 1866.

CHS. CLAIBORNE, *Clerk.*
By F. B. VINOT, *D'y Clerk.*

273 THE UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

The President of the United States to Edmond B. Bigelow, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of

error filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein Edward W. Burbank is plaintiff in error, and you are defendant, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ mentioned, should not be corrected, and why speedy justice should not be done to the parties on that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

274 Received March 27th, 1866, and on the 28th day of same month and year served a copy of the within citation in error on Edmund B. Bigelow, plt'ff named herein, by giving said documents into the hands of Geo. L. Bright, esq., who is attorney for said plt'ff, and who accepted service of the same for said plt'ff, at his office in Natchez street, near Bank place in this city.

M. EGAN,
D'y U. S. Marshal.

New Orleans, March 28th, 1866.